

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA, :

- v. - :

EARNEST JAMES UJAAMA, :

a/k/a "James Ujaama," :

a/k/a "Bilal Ahmed," :

a/k/a "Abu Sumaya," :

a/k/a "Abdul Qaadir," :

a/k/a "Abdul James Earnest Thompson," :

Defendant. :

**REQUESTED TO BE
FILED UNDER SEAL**

S3 04 Cr. 356 (KBF)

----- X
SENTENCING MEMORANDUM OF THE UNITED STATES OF AMERICA

PREET BHARARA
United States Attorney for the
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

John P. Cronan
Edward Y. Kim
Ian McGinley
Shane Stansbury
Assistant United States Attorneys
-Of Counsel-

TABLE OF CONTENTS

I.	PRELIMINARY STATEMENT	1
II.	BACKGROUND.....	2
A.	Ujaama's Background And Adoption Of Extremist Ideology	2
B.	The Bly Training Camp.....	5
C.	Ujaama's Work At The Finsbury Park Mosque.....	10
D.	Ujaama's Support For Violent Jihad And The Taliban In Afghanistan.....	11
E.	Ujaama's Other Criminal Conduct.....	17
F.	Ujaama's False Statements To The Media And The Material Witness Warrant	19
G.	Ujaama's Guilty Plea And Sentence In The Western District Of Washington.....	20
H.	Ujaama's Flight To Belize And Violation Of Supervised Release	22
I.	Ujaama's Guilty Plea In The Southern District Of New York.....	23
J.	Ujaama's Release On Bail In December 2010	26
K.	The Presentence Investigation Report.....	27
III.	UJAAMA'S COOPERATION WITH THE GOVERNMENT	31
A.	Information Provided To The Government.....	31
B.	Information Provided To Foreign Officials.....	33
1.	Investigation Of Dhiren Barot.....	33
2.	Investigation Of Omar Khyam	35
C.	Ujaama's Assistance With Oussama Kassir's Conviction.....	36
1.	Kassir's Offense Conduct And Conviction.....	36
2.	Ujaama's Testimony At Kassir's Trial.....	37

D.	Ujaama's Assistance With Abu Hamza's Conviction.....	38
1.	Abu Hamza's Offense Conduct And Conviction.....	39
2.	Ujaama's Testimony At Abu Hamza's Trial.....	41
E.	Haroon Aswat's Guilty Plea.....	45
F.	Overview of Ujaama's Substantial Assistance.....	46
1.	"[S]ignificance and usefulness" of assistance (U.S.S.G. § 5K1.1(a)(1))	46
2.	"[T]ruthfulness, completeness, and reliability," of information and testimony (U.S.S.G. § 5K1.1(a)(2))	47
3.	"[N]ature and extent" of assistance (U.S.S.G. § 5K1.1(a)(3))	48
4.	"[A]ny injury suffered, or any danger or risk of injury to the defendant or [his] family" resulting from assistance (U.S.S.G. § 5K1.1(a)(4)).....	48
5.	"[T]imeliness" of assistance (U.S.S.G. § 5K1.1(a)(5))	49
IV.	CONCLUSION.....	49

TABLE OF AUTHORITIES

Cases

<i>Smith v. Islamic Emirate of Afghanistan</i> , No. 01 Civ. 10132 (HB), 2001 WL 1658211 (S.D.N.Y. Dec. 26, 2001)	27
<i>United States v. Awan</i> , 607 F.3d 306 (2d Cir. 2010)	27
<i>United States v. Renaud</i> , 999 F.2d 622 (2d Cir. 1993)	29

Federal Statutes And Regulations

18 U.S.C. § 2	21
18 U.S.C. § 371	23, 40
18 U.S.C. § 842	37
18 U.S.C. § 844	35
18 U.S.C. § 924	21
18 U.S.C. § 956	21, 37
18 U.S.C. § 1203	40
18 U.S.C. § 1073	24
18 U.S.C. § 2332a	34, 35
18 U.S.C. § 2332b	27
18 U.S.C. § 2339A	21, 24, 27, 29, 35, 37, 40
18 U.S.C. § 2339B	21, 37, 40, 46
18 U.S.C. § 3583	29, 30
50 U.S.C. § 1705	21, 40
31 C.F.R. § 545.204	21
31 C.F.R. § 545.206	21

United States Sentencing Guidelines

U.S.S.G. § 2A1.5	27, 28
U.S.S.G. § 2J1.6.....	28
U.S.S.G. § 3A1.4	27, 28
U.S.S.G. § 3E1.1.....	28
U.S.S.G. § 5G1.2	29
U.S.S.G. § 5K1.1	2, 29, 46, 47, 48, 49

I. PRELIMINARY STATEMENT

The Government respectfully submits this memorandum in connection with the sentencing of Earnest James Ujaama ("Ujaama"), which is scheduled for October 23, 2015, at 10:00 a.m., to advise the Court of the pertinent facts concerning the assistance to law enforcement that Ujaama has rendered in the investigation and prosecutions of other persons. Ujaama's assistance has been extraordinary in many respects, and has included providing assistance that helped result in the convictions of co-defendants Mustafa Kamel Mustafa, a/k/a "Abu Hamza" ("Abu Hamza"), Ouassama Kassir ("Kassir"), and Haroon Aswat ("Aswat"), as well as assistance in many other terrorism investigations.

To be sure, there is no question as to the exceedingly serious nature of Ujaama's criminal conduct of providing support to terrorism in the United States, London, and Afghanistan. A loyal follower of Abu Hamza, Ujaama endeavored to develop a terrorist training camp in Oregon, dutifully served Abu Hamza at the Finsbury Park Mosque in London, and supported the Taliban and terrorist activities in Afghanistan. Nor can there be any question as to the reprehensible nature of Ujaama's decision in December 2010 to abscond to Belize while on supervised release to avoid having to testify, as required under his initial cooperation agreement with the United States Attorney's Office for the Western District of Washington.

At the same time, however, the value of Ujaama's assistance to the Government has been immense. And the extent of Ujaama's cooperation has been, in many ways, unprecedented in federal terrorism prosecutions. He was an important witness at two trials in the Southern District of New York of extremely significant terrorism defendants: the 2014 trial of Abu Hamza, a London-based terrorist leader who orchestrated global acts of terror, and the 2009 trial of Kassir, one of Abu Hamza's followers who traveled to the United States to establish the jihad training

camp in Oregon. Both Abu Hamza and Kassir are now serving life sentences. Ujaama's powerful testimony at these two trials most certainly played a significant role in the decision of a third member of the Bly training camp conspiracy, Aswat, to plead guilty to terrorism offenses earlier this year very shortly after his extradition. Ujaama also has been debriefed extensively by U.S. officials in connection with a host of related and unrelated terrorism investigations, he has assisted British authorities in investigations that culminated in convictions in two major terrorism prosecutions in the United Kingdom, and the Government has assessed Ujaama's information to be truthful, reliable, and consistent both internally and with independent evidence.

In light of the facts set forth in this memorandum, and assuming Ujaama continues to comply with the terms of his cooperation agreement and commits no additional crimes before sentencing, the Government intends to move at sentencing, pursuant to Section 5K1.1 of the United States Sentencing Guidelines (the "Guidelines" or "U.S.S.G."), that this Court sentence Ujaama in light of the factors set forth in Section 5K1.1(a)(1)-(5) of the Guidelines.

II. BACKGROUND

A. Ujaama's Background And Adoption Of Extremist Ideology

Ujaama, who is currently 49 years old, was born in Denver, Colorado, with the birth name, James Ernest Thompson. *Mustafa* Tr. at 1935, 2008; *Kassir* Tr. at 1278, 1282; PSR ¶ 80.¹ In the late 1980s, Ujaama changed his name to Ernest James Ujaama. *Mustafa* Tr. at 2008; *Kassir* Tr. at 1282. Around 1996, Ujaama converted from Christianity to Islam and began

¹ Citations to the transcript of the 2014 trial in *United States v. Mustafa Kamel Mustafa, a/k/a "Abu Hamza,"* 04 Cr. 356 (KBF) (S.D.N.Y.) are referred to herein as "*Mustafa* Tr."; citations to the transcript of the 2009 trial in *United States v. Ouassama Kassir*, S2 04 Cr. 356 (JFK) (S.D.N.Y.) are referred to herein as "*Kassir* Tr."; and citations to the Presentence Investigation Report, dated September 22, 2015, are referred to herein as "PSR". The transcripts of Ujaama's testimony at the *Mustafa* and *Kassir* trials are attached hereto as Exhibits A and B, respectively.

attending services at the Dar Us Salaam Mosque in Seattle, Washington. *Mustafa* Tr. at 2009-10; *Kassir* Tr. at 1283-84.

Toward the end of 1996, after his conversion to Islam, Ujaama traveled to London to study Islam under Sheikh Faisal, a radical imam whose lecture tapes Ujaama disseminated in the United States. *Mustafa* Tr. at 2011-12; *Kassir* Tr. at 1285. At this point of his life, Ujaama shared Sheikh Faisal's opposition to U.S. foreign policy, including the appropriateness of violence to forcibly remove U.S. troops from the Arabian Peninsula. *Kassir* Tr. at 1287-88. In particular, Ujaama at the time considered the October 2000 bombing of the *USS Cole* off the coast of Aden, Yemen, which killed 17 U.S. sailors and injured many more, as an appropriate act of military-style jihad, and further viewed the use of violence against U.S. civilians as an unfortunate result of their presence in an area where they should not have been. *Kassir* Tr. at 1289.

In late 1998, Ujaama traveled to Pakistan, and then onwards to Afghanistan, to receive military-style jihad training and study Islam. *Mustafa* Tr. at 2013; *Kassir* Tr. at 1290. In Afghanistan, Ujaama attended a Tablighi Jamaat training camp for Pakistani youth, which featured a variety of weapons and was visited by someone who appeared to be a Taliban official. *Mustafa* Tr. at 2016-18; *Kassir* Tr. at 1292-94. At the camp, Ujaama received instructions on handling and disassembling an AK-47, was taught how to shoot from different positions, and fired an AK-47 rifle and a large artillery gun. *Mustafa* Tr. at 2017; *Kassir* Tr. at 1294-95. Ujaama also received religious training, which included learning Koran recitation, at the Tablighi Jamaat camp. *Mustafa* Tr. at 2017; *Kassir* Tr. at 1296. After a short period of time at the camp, Ujaama took ill and returned to London. *Mustafa* Tr. at 2018; *Kassir* Tr. at 1296.

Back in London, Ujaama met for the first time Abu Hamza, who was the imam of the Finsbury Park Mosque and someone Ujaama understood to be a jihadi sheikh and able to send men to fight in Afghanistan. *Mustafa* Tr. at 2019; *Kassir* Tr. at 1296. Abu Hamza also supported violent opposition to U.S. foreign policy to remove U.S. military from Muslim and Arab lands. *Kassir* Tr. at 1297. Their first meeting was in Abu Hamza's office at the Finsbury Park Mosque. *Mustafa* Tr. at 2019-20; *Kassir* Tr. at 1297-98. Ujaama was impressed by Abu Hamza during this meeting, finding Abu Hamza to be very knowledgeable and likeable. *Mustafa* Tr. at 2021; *Kassir* Tr. at 1298. Following this meeting, Ujaama decided to cease studying under Sheikh Faisal and to become a student of Abu Hamza's. *Mustafa* Tr. at 2022; *Kassir* Tr. at 1298-99. Ujaama then returned to the United States, bringing with him cassette tapes of Islamic lectures by Abu Hamza that Ujaama would distribute and sell at the Dar Us Salaam Mosque and elsewhere in the United States. *Mustafa* Tr. at 2021-23; *Kassir* Tr. at 1299.

Ujaama returned to London a few months later with the emir of the Dar Us Salaam Mosque, a man named Abdul Raheem. *Mustafa* Tr. at 2023-24; *Kassir* Tr. at 1299-1300. Ujaama hoped that, after meeting Abu Hamza, Abdul Raheem would pledge an oath of allegiance to Abu Hamza, resulting in Abdul Raheem and others from their Seattle mosque taking instructions from Abu Hamza. *Mustafa* Tr. at 2024; *Kassir* Tr. at 1300. When Ujaama and Abdul Raheem met with Abu Hamza, Ujaama told Abu Hamza about the young African American men at the Dar Us Salaam Mosque, which seemed to capture Abu Hamza's interest. *Mustafa* Tr. at 2024-25; *Kassir* Tr. at 1300-01.

Upon his return to the United States, Ujaama continued to sell tapes of Abu Hamza's lectures and sermons at the Dar Us Salaam Mosque and elsewhere in the United States. *Mustafa* Tr. at 2025, 2028-29; *Kassir* Tr. at 1301. On these tapes, which were marked with the logo of

Abu Hamza's organization, the Supporters of Shariah, Abu Hamza discussed such topics as physical jihad and the obligation of Muslims to travel to Muslim land where Islamic law was being established, namely, Afghanistan. *Mustafa* Tr. at 2025-28. Ujaama used the profits from the sales of Abu Hamza's tapes to purchase blank tapes and duplication equipment to allow him to generate more tapes to sell. *Mustafa* Tr. at 2028-29. Ujaama kept Abu Hamza apprised of his progress in these efforts to spread Abu Hamza's message in the United States. *Mustafa* Tr. at 2035-38.

B. The Bly Training Camp

In 1999, the imam of the Dar Us Salaam Mosque, Semi Osman, moved from the Seattle area to a remote ranch on a large property in Bly, Oregon. *Kassir* Tr. at 1302-03. Ujaama, joined by other members of the Dar Us Salaam Mosque, made two visits to the Bly property in the Fall of 1999. *Mustafa* Tr. at 2042-43; *Kassir* Tr. at 1303-04. During these visits, Ujaama and the other men rode horses and engaged in target shooting. *Mustafa* Tr. at 2045; *Kassir* Tr. at 1305.

Ujaama explained at the *Kassir* trial that he assessed the property at Bly to be "a great spot to set up a jihad training camp, a place to call other Muslims to learn about [deen] and to learn how to make hi[j]ra, to engage in jihad training"—specifically military-style training—and "eventually make hijra to Afghanistan and charge money for it."² *Kassir* Tr. at 1307-08.

Ujaama specifically envisioned that Muslims from the United Kingdom and the Dar Us Salaam Mosque would receive "combat training, survival training and . . . hand-to-hand combat and rifle training." *Id.* at 1309; *see Mustafa* Tr. at 2038 (Ujaama testifying that he envisioned, at Bly, "we

² As Ujaama testified at the *Kassir* trial, by "hadeen," he "meant learning about . . . Islam," and by "hijra," he meant "migrat[ing] from a place of sin to a place where you can practice Islam," which would entail "eventually moving to Afghanistan permanently." *Kassir* Tr. at 1307.

could set up a place for Muslims to come from the U.K. especially, [where they] could engage in training that would include shooting guns, . . . which were illegal in the U.K., and being able to go from there to Afghanistan”). Ujaama intended this military-style training to support the Taliban by preparing Muslim men to make hijra to Afghanistan, where they could receive further training or fight on the front lines to in support of the Taliban’s battle against the Northern Alliance. *Mustafa* Tr. at 2047, 2054-55; *Kassir* Tr. at 1308-09.³

Ujaama presented his vision for the Bly property to Abu Hamza. *Mustafa* Tr. at 2038; *Kassir* Tr. at 1309-10. After an initial telephone conversation with Abu Hamza about his plan to establish a training camp at Bly, Ujaama sent a fax to Abu Hamza on October 25, 1999. *Mustafa* Tr. at 2038, 2055-57; *Kassir* Tr. at 1310-11. The first part of the fax contained a flyer that advertised the training camp, which Ujaama intended to be posted at the Finsbury Park Mosque, the Dar Us Salaam Mosque, and other places where Muslim men were likely to see it. *Mustafa* Tr. at 2059; *Kassir* Tr. at 1313-14. The flyer advertised, among other things, training in survival, horse riding, archery, combat and martial arts, rifle and handgun handling, hunting, and Koran recitation, as well as provided information regarding the cost for travel. *Mustafa* Tr. at 2059-60; *Kassir* Tr. at 1314.

The second part of the October 25, 1999 fax was a letter from Ujaama to Abu Hamza that articulated the plan for the training camp. *Mustafa* Tr. at 2060-61; *Kassir* Tr. at 1313, 1315. Ujaama explained to Abu Hamza that the property that they had “spoke[n] of is about 360 acres and looks just like Afghanistan with mountains and small trees, dry, hot and cold extreme temperatures,” a comparison Ujaama drew because Afghanistan was the intended ultimate

³ Ujaama testified at the *Kassir* trial that he did not intend for the Bly training camp to support al Qaeda. *Kassir* Tr. at 1308. The Government is aware of no information to the contrary.

destination for the trainees. *Mustafa* Tr. at 2061; *Kassir* Tr. at 1315. Ujaama further noted that their activities would be “100 percent legal,” and that the property “is in a state that is pro militia and firearms state, an advantage for self-defense training.” *Mustafa* Tr. at 2061-62; *Kassir* Tr. at 1315. Ujaama also noted that his “jumaat”—referring to the group of young men from the Dar Us Salaam Mosque that Ujaama had previously mentioned to Abu Hamza—was “young, strong and desirous” and all had “given our bayaat to you.” *Mustafa* Tr. at 2062; *Kassir* Tr. at 1316. Ujaama further assured Abu Hamza that his jumaat would be “providing heavily armed sutra,” referring to security protection, to Abu Hamza “at all times in the U.S.” and that “[i]t would be almost impossible for any zealot or kafir to come on to our private property and take you away from our sight without a serious armed fight.” *Mustafa* Tr. at 2062-63; *Kassir* Tr. at 1316. Ujaama testified at Kassir’s trial that he gave Abu Hamza this safety assurance “to emphasize that we were prepared to defend him by any means necessary.” *Kassir* Tr. at 1316. Ujaama further noted that they would “build a big following” and would be able to take “some of the external pressure from some of the backs of our brothers abroad,” referring to the Taliban fighters in Afghanistan. *Mustafa* Tr. at 2063-64; *Kassir* Tr. at 1316-17. Ujaama additionally informed Abu Hamza that they were “stockpiling weapons and ammunition,” which while not accurate, was intended to entice Abu Hamza to send men from the United Kingdom to train at Bly. *Mustafa* Tr. at 2064; *Kassir* Tr. at 1317-18.

Ujaama also wrote that any men Abu Hamza were to send “must have permission in writing or verified before they will be accepted,” to ensure that they were experienced and had been properly vetted by Abu Hamza. *Mustafa* Tr. at 2065; *Kassir* Tr. at 1318. Ujaama additionally informed Abu Hamza that “[w]e are expecting the two brothers that we discussed to come in November.” *Mustafa* Tr. at 2066; *Kassir* Tr. at 1318. Those “two brothers” that

Ujaama and Abu Hamza had previously discussed would be Kassir and Aswat. Ujaama had previously advised Abu Hamza that he desired men with skills in jihad training and fundraising, and with religious knowledge to teach the Koran, to help start the camp. *Kassir* Tr. at 1318. Ujaama explained that these “brothers can fly to New York and catch a Greyhound bus, three to five day ride to Seattle or Portland,” and that “[w]e will collect them and take them from there,” which is the route Kassir and Aswat would in fact take in November 1999. *Mustafa* Tr. at 2067; *Kassir* Tr. at 1318-19.

Ujaama further advised Abu Hamza that he planned to “build a mosque on the land and classes will be held using SOS tapes and material,” referring to tapes of Abu Hamza lectures from his Supporters of Shariah organization. *Mustafa* Tr. at 2066; *Kassir* Tr. at 1318. Ujaama also told Abu Hamza that they were “still building on the facility,” which also was untrue and another effort by Ujaama to convince Abu Hamza to embrace his vision for Bly. *Mustafa* Tr. at 2066. Ujaama concluded the letter by explaining his plan for Abu Hamza’s arrival at the Bly training camp. *Mustafa* Tr. at 2068; *Kassir* Tr. at 1319. Ujaama hoped that Abu Hamza would come to Bly, believing that Abu Hamza’s presence there would add legitimacy to the project. *Mustafa* Tr. at 2068.

Ujaama and Abu Hamza spoke on the telephone after Ujaama sent the October 25, 1999 fax. *Mustafa* Tr. at 2069; *Kassir* Tr. at 1326. During this conversation, Abu Hamza scolded Ujaama for sending the fax, because MI5—referring to a British intelligence—could have intercepted the fax. *Mustafa* Tr. at 2070; *Kassir* Tr. at 1327.

Ujaama sent Abu Hamza a second fax on November 6, 1999. *Mustafa* Tr. at 2071. This fax requested various tapes of lectures and prayers by Abu Hamza and Sheikh Faisal that Ujaama planned to disseminate in the United States. *Id.* at 2073. At the time, Ujaama was transcribing

Abu Hamza's tapes to convert them into books that Ujaama planned to sell. *Id.* at 2074-75. The November 6, 1999 fax also included an update for Abu Hamza as to the status of the training camp. Ujaama reported that the "jumaat" had been split into two, and that "[t]he two brothers coming"—who would be Kassir and Aswat—"will not have contact with the first jumaat, and the first jumaat will lead hypocrites and unwanted persons away. They will know absolutely nothing about the second." *Id.* at 2077.

As Ujaama had discussed with Abu Hamza, Kassir and Aswat in fact arrived in the United States on November 26, 1999, flying into New York City and then taking a Greyhound bus to Seattle. *Mustafa* Tr. at 2080-81; *Kassir* Tr. at 1328-29; PSR ¶ 15. Ujaama picked up Aswat, Kassir, and Kassir's family from the Greyhound station in Seattle and drove them to his apartment in Tacoma. *Mustafa* Tr. at 2081-83; *Kassir* Tr. at 1329. In the Seattle area, Ujaama introduced Kassir and Aswat to some of the men at the Dar Us Salaam Mosque. *Mustafa* Tr. at 2083; *Kassir* Tr. at 1330. After a few days, Ujaama brought Kassir and Aswat to the ranch in Bly so they could start working on the training camp. *Mustafa* Tr. at 2084; *Kassir* Tr. at 1331.

Ujaama, Kassir, and Aswat were met at Bly by Semi Osman and others. *Kassir* Tr. at 1332. At Bly, Ujaama and Kassir had a falling out, after Kassir was angry that the training camp was not as advanced as Ujaama had led Abu Hamza to believe. *Mustafa* Tr. at 2086-87; *Kassir* Tr. at 1332-33. As Ujaama testified at the *Mustafa* trial, "[Kassir] said that he was upset with Sheikh Abu Hamza, because he had sent him down there and there were supposed to be recruits and weapons and other things there. But there was nothing down in the property." *Mustafa* Tr. at 2087; *accord* *Kassir* Tr. at 1333.⁴ Ujaama and Kassir also argued about who would be the

⁴ Ujaama later confronted Abu Hamza about sharing with Kassir the October 25, 1999 fax, which Ujaama intended to be a private communication between him and Abu Hamza.

emir of the training camp project, with Ujaama intending to be the leader and Kassir assuming it would be him. *Mustafa* Tr. at 2088; *Kassir* Tr. at 1333-34. Ujaama called Abu Hamza from Bly to complain about Kassir and try to resolve their dispute, but Kassir refused to speak with Abu Hamza. *Mustafa* Tr. at 2088-89.

Concerned about his safety around Kassir, Ujaama returned to his home in Tacoma, leaving Kassir and Aswat behind at Bly. *Mustafa* Tr. at 2089-90; *Kassir* Tr. at 1334. About two or three weeks later, Ujaama encountered Kassir at the Dar Us Salaam Mosque in Seattle, where Kassir was delivering the Friday sermon. *Kassir* Tr. at 1336. Ujaama and Kassir then had an argument when Ujaama tried to prevent Kassir from delivering the prayer. *Mustafa* Tr. at 2114; *Kassir* Tr. at 1336-37. Ujaama then left the mosque and soon thereafter sent his wife to London. *Mustafa* Tr. at 2115; *Kassir* Tr. at 1337. After living briefly with his grandmother in Denver, Ujaama joined his wife, who was pregnant at the time, in London around Spring 2000. *Mustafa* Tr. at 2116; *Kassir* Tr. at 1338.

C. Ujaama's Work At The Finsbury Park Mosque

Upon his return to London, Ujaama resumed attending the Finsbury Park Mosque and began to work for Abu Hamza's Supporters of Shariah organization. *Mustafa* Tr. at 1954-55, 2116-18; *Kassir* Tr. at 1339. The focus of the Supporters of Shariah was to spread Abu Hamza's message through tapes, printed material, and online. *Mustafa* Tr. at 1955-56.

Ujaama managed the *Al-Jihad* newsletter, which featured articles on jihad, Abu Hamza's messages, current events, and Islamic topics. *Mustafa* Tr. at 1964; *Kassir* Tr. at 1339. Ujaama wrote articles about jihad for the newsletter and designed the online version of the newsletter, which was published on the Supporters of Shariah website. *Kassir* Tr. at 1339, 1344. Ujaama

Mustafa Tr. at 2091; *Kassir* Tr. at 1335. Abu Hamza claimed that Kassir had stolen the fax out of the garbage. *Id.*

also served as the web developer for the Supporters of Shariah's website, and ran the English portion of the website, with Abu Hamza running the Arabic portion. *Mustafa* Tr. at 1965-66; *Kassir* Tr. at 1340. Ujaama also organized, attended, and spoke at Supporters of Shariah conferences with Abu Hamza. *Kassir* Tr. at 1343-44.

In 2000, Ujaama traveled to the United States for Abu Hamza, visiting two mosques in the New York City area to raise money for the Supporters of Shariah's hijra project. *Mustafa* Tr. at 2134-35. During this trip, Ujaama also traveled to Texas where he obtained a tape duplicator machine for Abu Hamza, received web programming training, and purchased batteries for his laptop. *Mustafa* Tr. at 2136-38.

D. Ujaama's Support For Violent Jihad And The Taliban In Afghanistan

In 2000, Abu Hamza tasked Ujaama to travel to Afghanistan, to deliver a young man named Feroz Abassi ("Abassi")⁵ to Ibn Sheikh and to help set up a girls' school. *Mustafa* Tr. at 2141; *Kassir* Tr. at 1348-49. Abu Hamza explained to Ujaama that Ibn Sheikh was a front line commander, which Ujaama understood to mean that Ibn Sheikh fought with the Taliban against the Northern Alliance in Afghanistan. *Mustafa* Tr. at 2141; *Kassir* Tr. at 1349-50.⁶ After initially resisting Abu Hamza's order to take Abassi to Afghanistan, Ujaama capitulated and

⁵ Abassi lived at the Finsbury Park Mosque and worked with Ujaama on the Supporters of Shariah's website and the *Al-Jihad* newsletter. *Mustafa* Tr. at 2139; *Kassir* Tr. at 1347. Prior to their travel, Abassi had mentioned to Ujaama that he hoped to receive jihad training in Afghanistan, fight on the front lines, and make hijra in Afghanistan. *Mustafa* Tr. at 2140-41; *Kassir* Tr. at 1347.

⁶ Around this time, Ibn Sheikh ran the Khalden jihad training camp, a terrorist training camp in Afghanistan where many al Qaeda fighters, including Richard Reid (the attempted shoe bomber) and Zaharias Moussaoui (who was convicted for his participation in the 9/11 conspiracy) trained. PSR ¶ 24. Ibn Sheikh was well-known throughout Afghanistan for his training camp and was praised by al Qaeda for his battle skills against U.S. forces following September 11, 2001. *Id.*

agreed. *Mustafa* Tr. at 2142-43; *Kassir* Tr. at 1350. Ujaama's travels with Abassi were funded by the Finsbury Park Mosque's hijra fund. *Mustafa* Tr. at 2153; *Kassir* Tr. at 1351-52.

Prior to departing, Abu Hamza gave Ujaama four envelopes—one with 2,500 pounds and the other three with 500 pounds—and CDs for Ujaama to deliver in Afghanistan. *Mustafa* Tr. at 2145; *Kassir* Tr. at 1352. Abu Hamza directed Ujaama to deliver the envelope with 2,500 pounds to a girls' school in Khost, Afghanistan; an envelope with 500 pounds and Koran recitation CDs to an explosives expert named Abu Khabbab who apparently needed the money for his sick daughter; an envelope with 500 pounds to Ibn Sheikh to support widows of Arab mujahideen; and an envelope with 500 pounds to an Afghan man to support widows of Afghan mujahideen. *Mustafa* Tr. at 2146-51; *Kassir* Tr. at 1352-56. Abu Hamza also advised Ujaama that his travels would be facilitated by a man named Mutawakil, who was the foreign minister for the Taliban, and gave Ujaama a letter for Mutawakil. *Mustafa* Tr. at 2145-46, 2151; *Kassir* Tr. at 1350-51, 1356.

Ujaama departed with Abassi the day after receiving these materials from Abu Hamza. *Kassir* Tr. at 1356-57. After landing in Karachi, Pakistan, Ujaama and Abassi traveled to Islamabad, Peshawar, and then Quetta, where they stayed at the Al Khair Hotel. *Mustafa* Tr. at 2154-56; *Kassir* Tr. at 1357-58. During their travels, Ujaama advised Abassi as to how to pray in a manner that would not draw attention to them. *Mustafa* Tr. at 2158-59; *Kassir* Tr. at 1358-59. In Quetta, Ujaama went to the Taliban office, where Ujaama met with a Taliban employee who worked with Mutawakil and delivered Abu Hamza's letter to Mutawakil. *Mustafa* Tr. at 2159-60; *Kassir* Tr. at 1359-60. Ujaama also installed web development and graphic software on computers at the Taliban office. *Mustafa* Tr. at 2160; *Kassir* Tr. at 1360.

While in Quetta, Ujaama decided to leave Abassi behind and not take him into Afghanistan. *Mustafa* Tr. at 2161-62; *Kassir* Tr. at 1360-61. Ujaama was driven across the border to Afghanistan with members of the Taliban, and then went to the Taliban office, which was located at a large compound in Kandahar. *Mustafa* Tr. at 2163-66; *Kassir* Tr. at 1361-62. At the Taliban office, Ujaama met with Mutawakil, who by then had the letter from Abu Hamza, and installed software on a computer at the office. *Mustafa* Tr. at 2166; *Kassir* Tr. at 1362. Ujaama then went to Kabul, where he stayed first at a hotel and then at a guest house that was operated by someone to whom Abu Hamza had directed Ujaama (the “Kabul guest house”). *Mustafa* Tr. at 2167-68; *Kassir* Tr. at 1364.

In Afghanistan, Ujaama delivered the four envelopes, as per Abu Hamza’s directions. Ujaama delivered the envelope to Ibn Sheikh at a large compound in Kabul, conveyed that Abu Hamza wished he were able to give more money, and told Ibn Sheikh that Ibn Sheikh would need to go to Quetta to retrieve Abassi. *Mustafa* Tr. at 2169-72; *Kassir* Tr. at 1364-65. Ujaama delivered the envelope to Abu Khabbab on the top floor of a duplex building. *Kassir* Tr. at 1366. During this encounter, Abu Khabbab—an expert in explosives who ran explosives training camps—mentioned that the Taliban would be giving him land so he could train Taliban fighters for battle against the Northern Alliance. *Mustafa* Tr. at 2175; *Kassir* Tr. at 1366-67. Ujaama also traveled to Khost with the intention of delivering the envelope with 2,500 pounds to the girls’ school. *Mustafa* Tr. at 2176; *Kassir* Tr. at 1367. After Ujaama was unable to find the girls’ school in Khost, he returned to Kabul and, at the instructions of Abu Hamza, delivered the envelope to the Supporters of Shariah’s representative there, a man named Abdul Rahman. *Mustafa* Tr. at 2179-81; *Kassir* Tr. at 1367-68. After initially delivering the fourth envelope to

the wrong person, Ujaama delivered it to the correct Afghan individual. *Mustafa* Tr. at 2184; *Kassir* Tr. at 1371.

While in Khost, Ujaama spoke with Abu Hamza over the telephone about another person's desire to have Ujaama fight on the front lines, which both Abu Hamza and Ujaama opposed. *Mustafa* Tr. at 2177-78; *Kassir* Tr. at 1369. During this call, Abu Hamza was angry at Ujaama for leaving Abassi behind in Quetta and ordered Ujaama to return to Quetta to retrieve him (which Ujaama did not do). *Mustafa* Tr. at 2178-79; *Kassir* Tr. at 1369. Ujaama later returned to the Kabul guest house, where he took ill and received medical treatment from an individual who he later learned to be Ayman al-Zawahiri. *Mustafa* Tr. at 2181-83; *Kassir* Tr. at 1369-71. Zawahiri was the head of the Egyptian Islamic Jihad at the time, later became second-in-command in al Qaeda, and is now the overall leader of al Qaeda.

Ujaama later went back to the Taliban compound in Kandahar, where he saw Abassi. *Mustafa* Tr. at 2187; *Kassir* Tr. at 1371-72. Ujaama recommended the Kabul guest house to Abassi as a good place for Abassi to learn Arabic and Islamic education. *Mustafa* Tr. at 2188; *Kassir* Tr. at 1372. Ujaama also suggested that Abassi could wait for him in Kabul, so they could work together on a web training school, and gave Abassi a blanket as a gift for the head of the Kabul guest house. *Kassir* Tr. at 1372.

After a brief period at the Taliban compound in Kandahar, Ujaama crossed the border and returned to Quetta. *Mustafa* Tr. at 2188; *Kassir* Tr. at 1373. From Quetta, Ujaama traveled to Karachi and then back to London, after spending approximately a total of between two weeks and a month in Pakistan and Afghanistan. *Mustafa* Tr. at 2188; *Kassir* Tr. at 1373.

Upon returning to London, Ujaama resumed working at the Finsbury Park Mosque and provided Abu Hamza with a report of his trip to Pakistan and Afghanistan. *Mustafa* Tr. at 2188-

89; *Kassir* Tr. at 1373. One day while Ujaama was at the Finsbury Park Mosque, Abassi called the mosque to speak to Abu Hamza, but Abu Hamza refused to speak to Abassi. *Mustafa* Tr. at 2189-90; *Kassir* Tr. at 1373-74. In response to Abassi's request for permission to stay at the Kabul guest house to learn Arabic and study the Koran, Ujaama conveyed Abu Hamza's direction that Abassi go to Ibn Sheikh. *Mustafa* Tr. at 2190-91; *Kassir* Tr. at 1374.⁷

While in London, Ujaama discussed with Abu Hamza his plan to move to Kandahar to establish and teach at a web development school. *Kassir* Tr. at 1375-76. Before Ujaama left London, Abu Hamza gave Ujaama 6,000 pounds to deliver to Abdul Rahim to support the Supporters of Shariah's girls' school in Afghanistan. *Mustafa* Tr. at 2192; *Kassir* Tr. at 1377.

When Ujaama made his original attempt to depart from London on September 5, 2001, he was interviewed at the airport by British officials. *Kassir* Tr. at 1377-78. Ujaama was traveling with two laptops in an effort to fraudulently collect a tax rebate. *Kassir* Tr. at 1378-79. The airport interview resulted in Ujaama missing his flight, resulting in Ujaama traveling the following day. *Kassir* Tr. at 1379.

Ujaama flew into Pakistan and again stayed at the Al Khair Hotel in Quetta. *Mustafa* Tr. at 2193-94; *Kassir* Tr. at 1379-80. The attacks of September 11, 2001 occurred while Ujaama was at the Al Khair Hotel. *Mustafa* Tr. at 2206; *Kassir* Tr. at 1380.⁸ In conversations between

⁷ Abassi met up with Ibn Sheikh and was taken by Ibn Sheikh to an al Qaeda guest house called the House of Pomegranates. PSR ¶ 25. Abbasi later attended the al Faruq training camp, which was al Qaeda's primary training camp where recruits were trained in military tactics, weapons, and explosives. *Id.* In addition, while in Afghanistan, Abbasi met with senior al Qaeda leaders, Saif al-Adl and Abu Hafs al-Masri, who asked Abbasi about his willingness to participate in attacks against American and Jewish targets. *Id.* Abbasi was subsequently taken into custody by U.S. forces in Afghanistan in December 2001. PSR ¶ 26.

⁸ When he learned of the attacks, Ujaama felt happy because he saw the attacks as retribution for bad acts committed by the United States elsewhere in the world and hoped that the attacks "would send a wake-up call." *Kassir* Tr. at 1383; *see Mustafa* Tr. at 2206 ("I thought at the time that it would be a reminder that we need to change our policies, sir."). Ujaama testified

Abu Hamza and Ujaama following September 11, 2001, Abu Hamza initially directed Ujaama to deliver the money to Abdul Rahman in Afghanistan but, after Ujaama informed Abu Hamza that he was unable to do so. *Mustafa* Tr. at 2215, 2219. Abu Hamza then directed Ujaama to deliver the money to a group of Arabs, but Ujaama also was unwilling to do that out of concerns for his safety following the September 11th attacks. *Id.* at 2219-20; *see also Kassir* Tr. 1384 (Ujaama testifying that he did not travel to Afghanistan during this 2001 trip).⁹ Ultimately, Ujaama delivered the 6,000 pounds to the “owner of the money” in Karachi, Pakistan around mid-October 2001. *Mustafa* Tr. at 2215, 2220-25; GX 934 (October 14, 2001 email from Ujaama to Abu Hamza, advising Abu Hamza: “You have 24 hours to have someone contact me to pick up

at the *Mustafa* trial that he now “believe[s] that education, not violence, is the best way to change our foreign policies,” and that the 9/11 “attacks were not Islamic, nor were they justified.” *Mustafa* Tr. at 2207.

⁹ Ujaama testified at Abu Hamza’s trial as follows regarding his refusal to enter into Afghanistan or deliver the money to the group of Arabs as Abu Hamza had directed:

Q. What did Abu Hamza want you to do with the money, the 6,000 pounds, if you weren’t able to deliver the money to Abdul Rahman in Kabul?

A. To deliver it to a group of Arabs.

Q. Were you willing to meet with this group of Arabs?

A. No, sir.

Q. Why not?

A. Because at that time, September 11 had just happened, George Bush made a statement, and it was very, and I was very frightened to go around the emirates at that time.

* * * *

A. I did not want to go into Afghanistan through Arabs and I did not want to go into Afghanistan by any way that was not legal, and I felt [Abu Hamza] was pushing me to go and do something that would have gotten me into some serious, deep trouble, maybe even cost me my life.

Q. Did you ever make it to Afghanistan?

A. I did not.

Mustafa Tr. at 2219-20, 2223.

this emmanah, if you don't then you must be responsible for getting yourself. I don't want to hear from you again."").

During this trip, Ujaama remained in contact with Abu Hamza regarding matters concerning the Supporters of Shariah and Ujaama's delivery of the 6,000 pounds. *Mustafa* Tr. at 2195-2223. By this time, Ujaama's relationship with Abu Hamza had deteriorated, as Ujaama was seeking to pursue his own projects and did not want to travel to Afghanistan as Abu Hamza had desired. *Mustafa* Tr. at 2223; *Kassir* Tr. at 1384. After about three months in Pakistan, Ujaama returned to London and had no further contact with Abu Hamza. *Kassir* Tr. at 1385.

E. Ujaama's Other Criminal Conduct

The instant offenses were not Ujaama's first violations of the law. Below is a list of other crimes that Ujaama has committed, all of which Ujaama disclosed during his proffers with the Government:

- In approximately 1999, Ujaama committed shoplifting. *Mustafa* Tr. at 2250; *Kassir* Tr. at 1405.
- On February 9, 1999, Ujaama was arrested after an altercation at a Kinko's store in Tukwila, Washington. PSR ¶¶ 73-74; *Mustafa* Tr. at 2251; *Kassir* Tr. at 1406. Ujaama pled guilty to disorderly conduct in connection with this fight, and was sentenced to 90 days' custody with 88 days suspended, a \$1,000 fine with \$77 suspended, and was ordered to receive anger management treatment. PSR ¶ 73; see *Mustafa* Tr. at 2251; *Kassir* Tr. at 1406. Instead of complying with this sentence, however, Ujaama forged a letter from Abu Hamza at the Finsbury Park Mosque that falsely represented that Ujaama had completed 16 hours of anger management classes and counseling. *Mustafa* Tr. at 2252; *Kassir* Tr. at 1406.
- Ujaama has committed a number of motor vehicle violations, specifically, reckless driving and driving with a suspended license. *Mustafa* Tr. at 2253; *Kassir* Tr. at 1407. After committing these driving offenses, Ujaama failed to appear for at least nine court appearances. *Mustafa* Tr. at 2253; *Kassir* Tr. at 1407. On July 8, 1997, Ujaama was convicted, upon his guilty plea, for driving with a suspended license in the third degree. PSR ¶ 72. This conviction resulted in a sentence of 90 days in custody, with all 90 days suspended, and a \$1,000 fine, with \$850 of that fine suspended. *Id.*

- In the early 1990s, Ujaama fraudulently made money by depositing bank checks, knowing that there were insufficient funds in the account to cover the checks. *Kassir Tr. at 1407.*
- In 1984, Ujaama wrote checks on closed back accounts to obtain parts for his car. *Mustafa Tr. at 2253; Kassir Tr. at 1407.* Ujaama pled guilty in Seattle to knowingly issuing those bad checks. *Mustafa Tr. at 2254; Kassir Tr. at 1407.* Ujaama recalls that he was ordered to pay restitution and may have been placed on probation. *Mustafa Tr. at 2253.*
- Ujaama was a partner in a company called Olympic Computers. *Mustafa Tr. at 2254; Kassir Tr. at 1408.* Around 1990 or 1991, after a dispute with his partner, Ujaama had customers send approximately \$10,000 to him, so he would receive the money instead of the partnership. *Mustafa Tr. at 2254-55; Kassir Tr. at 1408.*
- Ujaama purchased more than a dozen laptops, knowing or believing them to be stolen, and then sold the laptops. *Mustafa Tr. at 2255; Kassir Tr. at 1408.* Ujaama estimates that he made more than \$10,000 selling these stolen laptops. *Mustafa Tr. at 2255.*
- Between 1998 and 2000, Ujaama purchased counterfeit computer software in Hong Kong and Pakistan, and sold that software. *Mustafa Tr. at 2255-56; Kassir Tr. at 1408.* Ujaama estimates that he made less than a few hundred dollars from selling counterfeit computer software. *Mustafa Tr. at 2256.*
- In around the late 1980s or 1990s, Ujaama purchased counterfeit watches, and sold the watches in New York, Seattle, Oregon, and California. *Mustafa Tr. at 2256; Kassir Tr. at 1408-09.* Ujaama estimates that he sold more than two dozen counterfeit watches, and made over \$2,000. *Mustafa Tr. at 2256-57.*
- In the mid-to-late 1980s, Ujaama committed a variety of crimes involving credit cards, by helping people inflate their income to lie on credit card applications and by using false Social Security numbers to secure credit cards. *Mustafa Tr. at 2257-58; Kassir Tr. at 1409.* Ujaama also wrote fake letters of employment for people to help them fraudulently obtain credit cards. *Mustafa Tr. at 2257.* Ujaama profited from this credit card fraud. *Id. at 2258.*
- In the late 1980s or early 1990s, Ujaama's ex-girlfriend called the police, alleging that Ujaama had kicked her tires, which Ujaama had done, and alleging that Ujaama carried a gun, which he did possess. *Mustafa Tr. at 2258; Kassir Tr. at 1409.* When the police arrived, Ujaama resisted being apprehended and, when the police arrested him, Ujaama fought back. *Kassir Tr. at 1409.* Ujaama was charged and proceeded to trial. *Mustafa Tr. at 2258-59; Kassir Tr. at 1410.* Ujaama was convicted after trial of disorderly conduct and destruction of property (the police officer's watch). *Mustafa Tr. at 2259; Kassir Tr. at 1410.* Ujaama recalls that he was sentenced to time-served as a result. *Mustafa Tr. at 2259.*

- Ujaama later retaliated against his aforementioned ex-girlfriend, by pouring sugar into the gas tank of her car to blow the engine. *Mustafa* Tr. at 2259; *Kassir* Tr. at 1410. Ujaama explained at Kassir's trial that he bought his ex-girlfriend that car and did not want her to have the car anymore. *Kassir* Tr. at 1410.¹⁰
- Ujaama has never paid taxes, and has been employed but has not file tax returns. *Mustafa* Tr. at 2259-60; *Kassir* Tr. at 1410. Ujaama testified at Abu Hamza's trial that he had the understanding that he did not owe taxes. *Mustafa* Tr. at 2260.
- In around the 1980s or early 1990s, while living in Alaska, Ujaama fired a gunshot from a hunting rifle out a window, after he became upset for being called a derogatory racist word. *Mustafa* Tr. at 2260-61; *Kassir* Tr. at 1410-11. According to Ujaama, he did not point the gun at anyone and no one was injured as a result of this incident. *Mustafa* Tr. at 2261; *Kassir* Tr. at 1411.

F. Ujaama's False Statements To The Media And The Material Witness Warrant

After Ujaama returned to the United States from London around early 2002, he suspected that he was under investigation and made false statements to reporters denying the existence of the jihad training camp in Bly. *Mustafa* Tr. at 2226; *Kassir* Tr. at 1386. In particular, Ujaama emailed a statement to a columnist at the *Seattle Post-Intelligencer* in response to an article that reported that a group of Seattle militants were being investigated for possible ties to al Qaeda in connection with scouting Oregon land for a terrorist camp. In his statement, which Ujaama signed as the founder of www.StopAmerica.org¹¹ and was published in *Seattle Post-Intelligencer* on July 19, 2002, Ujaama wrote, among other things:

- "My brother and I are not terrorists, and we should not have been charged in the media and harassed. Whatever involvement the government has alleged or leaked

¹⁰ Ujaama testified at the *Kassir* trial that he still has a relationship with this ex-girlfriend, explaining that she "takes care of [his] mother," "comes by quite often," and "is like a very close family member." *Kassir* Tr. at 1532

¹¹ Ujaama testified that stopamerica.org was "an antiwar project and Website, and a political action committee to talk about ending the war," *Mustafa* Tr. at 2225, which Ujaama created in late 2001, *Kassir* Tr. at 1474. Ujaama explained that he published on the website articles and "accused some of the former, the Clinton Administration officials of war crimes," and that he also designed and sold t-shirts for the project. *Mustafa* Tr. at 2225-26.

about us always has another side – the truthful side. We are prepared to challenge the government's charges in a Court of Law in a fair and impartial hearing. Currently, we have not been charged with any crimes, and at this point all reports are just rumours spread by mischievous people who have duped America into an unjust, racist and fascist war by appealing to people's worst fears."

- "If my brother and I are guilty of any wrong it is because America's values have become switched as is the case of when American Japanese were hurried off into concentration camps and ostracised [sic]."

On July 20, 2002, Ujaama was arrested on a material witness warrant. *Mustafa Tr.* at 2237; *Kassir Tr.* at 1386; PSR ¶ 28. While held in custody in Alexandria, Virginia, Ujaama sent another statement to the *Seattle Post-Intelligencer*. In this statement, which was published in the newspaper on August 28, 2002, Ujaama wrote, among other things:

- "I am innocent of any wrongdoing and am fully prepared to face my accusers and defend myself in a court of law. But the government has not allowed me to do that and instead tried and convicted me in the press."
- "Furthermore, I never had a problem cooperating fully with any investigation into the atrocities of September 11. I only ask that I be afforded simple constitutional rights. However, the FBI and Department of Justice have only sought to blackmail me. They have 'leaked' false information to the media – much of which is later proven inaccurate – resulting in news stories that destroy my reputation and endanger my future."
- "It is a frightening specter that America is embracing the kinds of practices reminiscent of dictatorship not democracy."
- "I repeat that I am innocent, I have not been charged with any crime and I have expressed my willingness to cooperate."

G. Ujaama's Guilty Plea And Sentence In The Western District Of Washington

On August 28, 2002, Ujaama was charged in the Western District of Washington with two counts: (1) conspiring to provide material support and resources to a designated foreign terrorist organization, *i.e.*, al Qaeda, and to provide material support, knowing that they were to be used in preparation for and in carrying out a conspiracy to destroy property and murder and maim persons outside the United States, in connection with his efforts to establish the Bly

training camp and his work with Abu Hamza, including with the Supporters of Shariah, in violation of Title 18, United States Code, Sections 2339B, 2339A, and 956(a)(1), (b); and (2) using, carrying, possessing, and discharging firearms during, in relation to, and in furtherance of a crime of violence, namely, the material support conspiracy in Count One, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(iii) and 2.

Ujaama then began proffering and entered into a cooperation agreement with the United States Attorney's Office for the Western District of Washington. Pursuant to that agreement, Ujaama pled guilty on April 14, 2003, to one count of conspiring to supply goods and services to the Taliban, in connection with installing software on computers for the Taliban and agreeing to deliver Abassi to Afghanistan, in violation of Title 50, United States Code, Section 1705(b) and Title 31, Code of Federal Regulations, Sections 545.204 and 545.206(b). *Mustafa* Tr. at 2240; *Kassir* Tr. at 1388. During his plea allocution, Ujaama acknowledged the agreed-upon conditions of his supervised release, including that he must keep the U.S. Attorney's Office apprised of his residence and he was not allowed to leave the continental United States without written approval of the U.S. Attorney's Office. *See* Transcript, *United States v. Ujaama*, No. Cr. 01-283 (W.D. Wash.) (Apr. 14, 2003), at 19. While Ujaama admitted his guilt of the charge in the Information during his allocution, *id.* at 30-31, he repeatedly maintained his innocence of the charges in the original indictment filed in the Western District of Washington, *id.* at 26, 27. Ujaama stated, at the conclusion of the plea hearing: "So that's what I'm here to do, is accept responsibility for that which I have done, and I know that it was wrong to break the law. I think that there – if we don't agree with certain laws there [are] better forums than the one that I actually took to disagree with those laws." *Id.* at 34.

Ujaama's cooperation agreement with the Western District of Washington also contemplated an agreed-upon sentence of 24 months' imprisonment and required Ujaama to cooperate for up to ten years. *Id.* at 12; *Mustafa* Tr. at 2239; *Kassir* Tr. at 1389-90. In accordance with that agreement, on February 13, 2004, Ujaama was sentenced for a term of imprisonment of 24 months and a term of supervised release of 36 months. *Mustafa* Tr. at 2239; *Kassir* Tr. at 1390.

H. Ujaama's Flight To Belize And Violation Of Supervised Release

In December 2006, while on supervised release, Ujaama fled to Belize. *Mustafa* Tr. at 2242; *Kassir* Tr. at 1392-93. When he testified at Kassir's trial, Ujaama explained that he decided to flee to Belize because he "was very depressed," had trouble fitting in with society with the scrutiny on him, and had no family. *Kassir* Tr. at 1392-93; *see Mustafa* Tr. at 2242 (testifying that he "was having a very difficult time . . . [b]ecause I was considered to be a government informant working for the government to tell on other people, and there were people who were saying bad things about me, and also threats were made on my life"). Ujaama explained when he testified at Abu Hamza's trial that he fled "[b]ecause I did not want to testify, I thought that the government was – trying to force me to do something that I did not want to do. And I was having a very difficult time living." *Mustafa* Tr. at 2242; *see* PSR ¶ 32 n.2.

Ujaama—who memorialized plans for his flight on his computer—fled by renting a car, driving to San Diego, taking a cab to cross the border to Mexico, acquiring a fraudulent passport with a fake name in Mexico City, and then taking a bus from Tijuana to Belize City. *Mustafa* Tr. at 2243; *Kassir* Tr. at 1393, 1498. Prior to leaving, Ujaama wrote a draft email which said that the Government's case against Kassir and Aswat was weak and accused the Government of making Ujaama do something he had not agreed to do. *Mustafa* Tr. at 2246. Ujaama at the time

had no knowledge as to the strength of the Government's proof against Kassir and Aswat. *Id.* Ujaama also wrote in the draft email that telling the truth was not good enough for the Government, which also was a baseless and untrue statement. *Id.*

Ujaama was apprehended in Belize on December 16, 2006. *Mustafa* Tr. at 2247; *Kassir* Tr. at 1393; PSR ¶ 32. When police officers approached the mosque where Ujaama was staying, Ujaama fled and was apprehended as he tried to run away. *Mustafa* Tr. at 2247. Gunshots were fired by the police during Ujaama's escape attempt; fortunately, it does not appear that anyone was injured. *Id.* Ujaama was then brought back to the United States and transported to Seattle for proceedings in connection with his violation of supervised release by fleeing to Belize. *Mustafa* Tr. at 2248; *Kassir* Tr. at 1393-94, 1401. Ujaama admitted the violations and was sentenced to two years of imprisonment for violating his supervised release. *Mustafa* Tr. at 2248; *Kassir* Tr. at 1402; PSR ¶ 71. In addition, Ujaama's flight resulted in the voiding of his cooperation agreement with the Western District of Washington and exposed him again to criminal liability for his efforts to establish a jihad training camp in Bly. *Mustafa* Tr. at 2249; *Kassir* Tr. at 1403.

I. Ujaama's Guilty Plea In The Southern District Of New York

After his cooperation agreement with the Western District of Washington was voided, Ujaama proffered with the Government again and entered into another cooperation agreement with the United States Attorney's Office for the Southern District of New York. *Mustafa* Tr. at 2249. On August 13, 2007, Ujaama pled guilty before the Honorable John F. Keenan in the instant case to an Information that charged him in four counts: (1) conspiring to provide material support and resources to terrorists, in connection with his efforts to establish the training camp at Bly, Oregon, in violation of Title 18, United States Code, Section 371; (2) conspiring to provide

material support and resources to terrorists, in connection with is efforts to facilitate violent jihad in Afghanistan, in violation of Title 18, United States Code, Section 2339A; (3) providing material support and resources to terrorists, in connection with is efforts to facilitate violent jihad in Afghanistan, in violation of Title 18, United States Code, Section 2339A; and (4) unlawful flight to avoid giving testimony, in connection with his flight to Belize in December 2006, in violation of Title 18, United States Code, Section 1073.

During his plea allocution United States District Judge John F. Keenan, Ujaama described his criminal conduct as to Count 1 (the Bly training camp count) as follows:

During October of 1999, when I was living in Seattle, Washington I discussed the creation of a jihad training camp in Bly, Oregon with Abu Hamza.

I understood jihad training to include training in Koran recitation, Islamic and Shariah studies, as well as military style training, including firearms[,] shooting a bow and arrow, self-defense tactics and hand-to-hand combat, all to prepare for Hijrah to Afghanistan.

My plan for the Bly, Oregon training camp was that it would be a place where Muslims could learn about Islam, and also gain enough familiarity with weapons that they could fight jihad in the front lines in Afghanistan if they chose to do so or attend additional jihad training in Afghanistan if they chose to do so.

I understood jihad fighting could include, among other things, using violence and bombing of military targets to fight the enemies of Islam.

Sometime in October 1999, I asked Abu Hamza to send two of his followers to the United States to assist me in raising money and in establishing the Bly, Oregon, training camp.

* * * *

On or about October 25, 1999, I faxed a letter to Abu Hamza stating, among other things, that I and others were stockpiling weapons and ammunition in the United States and that I was expecting the two brothers that we discussed to come in November.

* * * *

In late November or early December of 1999, [Oussama] Kassir and Haroon [Aswat] arrived in Seattle, Washington.

* * * *

In early December of 1999, Kassir and Haroon arrived at the Bly, Oregon property with me in order to raise money and assess the suitability of the Bly, Oregon property for a jihad training camp.

Transcript, *United States v. Ujaama*, 04 Cr. 356 (JFK) (S.D.N.Y.) (Aug. 13, 2007), at 20-23.

Ujaama provided the following allocution as to Counts Two and Three (supporting violent jihad in Afghanistan):

In approximately June of 2000, I traveled from London, England, to New York, in part to raise money for the Finsbury Park Mosque Hijrah Fund from worshipers at the local masjids in New York.

I understood Hijrah to mean emmigration [sic] to the Islamic Emirate of Afghanistan.

The Finsbury Park Mosque Hijrah Fund was a collection of money from which authorized persons could withdraw funds to make hijrah to Afghanistan.

While I was traveling to a mosque to raise money for the Hijrah Fund, I traveled through Manhattan, New York.

I collected money during this trip with the intent that this money would be added to the Finsbury Park Mosque's Hijrah Fund in London.

In approximately November and December of 2000, Abu Hamza requested that I assist Ferroz Abassi to travel from London, England to Afghanistan to attend a jihad training camp operated by a front line commander.

At the request of Abu Hamza I traveled with Abassi from London to Pakistan to assist his entry into Afghanistan.

The money to pay for my trip was taken from the Finsbury Park Hijrah Fund.

During this trip Abassi and I stayed at a safe house arranged by Abu Hamza, and I relied on assistance provided by Abu Hamza to enter Afghanistan.

I left Abassi in Pakistan to enter Afghanistan on his own.

It was my understanding that Abassi was going to remain in Afghanistan after training to fight [jihad] on the front lines.

* * * *

During the same trip at the direction of Abu Hamza I delivered currency and items to persons in the territory controlled by the Taliban.

Id. at 24-25.

Lastly, with respect to Count 4 (unlawful flight to Belize), Ujaama allocated as follows:

In December of 2006, I left the United States and traveled to Mexico and Belize. Part of the reason I left the United States was to avoid having to stay in the United States and give testimony in the criminal matters against Abu Hamza and others that were pending in the federal court in the Southern District of New York.

Id. at 25-26.

The total maximum sentence of incarceration for the four counts in the Information is 30 years' imprisonment.

J. Ujaama's Release On Bail In December 2010

After serving approximately four years in custody following his apprehension in Belize on December 16, 2006 (including completion of his 24-month sentence for violating supervised release), Ujaama was released on bail, with the Government's consent, on December 15, 2010. PSR at p.1; *Mustafa* Tr. at 1937. Ujaama has been compliant with the terms of his bail since his release in December 2010. PSR ¶ 10. In addition, Ujaama has been regularly attending school since his release on bail, having received a certificate in rapid web development with content management skills in March 2011, an undergraduate degree in 2013, and a master's degree in June 2015, and is currently in a PhD program. *Mustafa* Tr. at 2007-08; PSR ¶¶ 90-93; *see also* PSR p. 24 ("Since his release from custody in December 2010, the defendant has continued his educational pursuits at a dizzying pace.").

K. The Presentence Investigation Report

On September 22, 2015, the Probation Office issued the PSR in this case. The Probation Office calculated a total offense level of 44 under the Guidelines, calculated as follows:

- Group 1 (Count One: Efforts to establish the Bly training camp): The base offense level for Count One is 33, pursuant to U.S.S.G. § 2A1.5. See PSR ¶ 40. Because the offense was a felony that involved, or was intended to promote, a federal crime of terrorism, the offense is increased 12 levels, pursuant to U.S.S.G. § 3A1.4(a). See PSR ¶ 42.¹² Accordingly, the resulting adjusted offense level for Group 1 is 45. *Id.* ¶ 45.

¹² The defense argues in its sentencing submission that the terrorism enhancement should not apply because Ujaama's conduct entailed assisting the Taliban, and, according to the defense, the Taliban was the recognized government of Afghanistan at the time of Ujaama's criminal conduct, and similarly objected to the draft Presentence Investigation Report. See Sentencing Memorandum of Defendant Earnest James Ujaama at 14-16; PSR pp. 21-22. The Government agrees with the Probation Office's conclusion that the enhancement applies, because, at the relevant time, the Taliban certainly engaged in action that was intended to influence government conduct by coercion.

The terrorism enhancement applies if the crime: (1) is one of certain enumerated terrorism offenses, including Title 18, United States Code, Section 2339A, and (2) the crime was "calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct." 18 U.S.C. § 2332b(g)(5). A defendant does not have to personally calculate to influence a government, so long as the defendant is engaged in the enumerated crime with knowledge that the final recipient of his support, in this case the Taliban, sought to influence the conduct of government. See *United States v. Awan*, 607 F.3d 306, 316-18 (2d Cir. 2010).

Although the Taliban controlled vast areas of Afghanistan's territory during the time of Ujaama's criminal conduct, most nations, including the United States and the United Nations, did not recognize the Taliban as the legitimate governing body or the proper governing body of Afghanistan. See Report for Congress, *Afghanistan: Current Issues and U.S. Policy*, at p. CRS-20 (Oct. 24, 2002) (<http://fpc.state.gov/documents/organization/14834.pdf>) (discussing policies of the Clinton Administration prior to the attacks of September 11, 2001: "[T]he United States withheld recognition of Taliban as the legitimate government of Afghanistan and formally recognized no faction as the government. Based on the lack of broad international recognition of Taliban, the United Nations seated representatives of the former Rabbani government, not the Taliban. The United States closed its embassy in Kabul in January 1989, just after the Soviet pullout from Afghanistan, and the State Department ordered the Afghan embassy in Washington, D.C. closed in August 1997 because of a power struggle within the embassy between Rabbani and Taliban supporters."). Saudi Arabia, the United Arab Emirates, and Pakistan formerly recognized the Taliban, but by late 2001, even those countries had withdrawn such recognition. See *Smith v. Islamic Emirate of Afghanistan*, No. 01 Civ. 10132 (HB), 2001 WL 1658211, at *4 & n.6 (S.D.N.Y. Dec. 26, 2001) ("the Islamic Emirate of Afghanistan is no longer recognized by any country"). In the United Nations, Afghanistan was represented by Dr. Ravan Farhadi, who

- Group 2 (Counts Two and Three: Support for jihad in Afghanistan): The base offense level for both Counts Two and Three is also 33, pursuant to U.S.S.G. § 2A1.5. *See* PSR ¶ 46. Because the offenses in Counts Two and Three were felonies that involved, or was intended to promote, a federal crime of terrorism, the offense is increased 12 levels, pursuant to U.S.S.G. § 3A1.4(a). *See* PSR ¶ 48. Accordingly, the resulting adjusted offense level for Group 2 is also 45. *Id.* ¶ 51.
- Group 3 (Count Four: Unlawful flight to avoid prosecution): The base offense level for Count Four is six, pursuant to U.S.S.G. § 2J1.6. *See* PSR ¶ 52. There are no adjustments that apply. *Id.* ¶¶ 53-56.
- Grouping Analysis: Group 1 and Group 2 each count as one Unit; Group 3 does not count as a Unit. *See* PSR ¶ 57. Accordingly, the offense level of 45 is increased by two levels, resulting in a combined adjusted offense level of 47. *Id.* ¶¶ 59-60.
- Acceptance of Responsibility: Ujaama's offense level is reduced by three levels, pursuant to U.S.S.G. § 3E1.1(a), (b), on account of his acceptance of responsibility. *See* PSR ¶ 62.
- Final Offense Level: Thus, the total offense level is 44. However, pursuant to Chapter 5, Part A, comment 2, of the Guidelines, this offense level is treated as level 43. *See* PSR ¶ 63.
- Criminal History: Because of the application of the terrorism enhancement under U.S.S.G. § 3A1.4(a), Ujaama's Criminal History Category becomes Category VI, pursuant to U.S.S.G. § 3A1.4(b). *See* PSR ¶ 75.

The Government concurs with Probation's offense level and Criminal History calculations.

served as Ambassador Permanent Representative of Afghanistan from 1993 through 2006. *See* <http://www.nytimes.com/2001/10/03/nyregion/public-lives-coming-in-from-the-cold-of-diplomatic-obscurity.html>. Dr. Farhadi was a member of the Northern Alliance, a group of non-Pashtun ethnic groups led (in large part) by Tajiks, formed to resist the predominately Pashtun Taliban. *See* http://news.bbc.co.uk/2/hi/south_asia/1652187.stm.

Moreover, the Taliban was a sub-national group that sought to influence governments, such as within Afghanistan by usurping control of territory and fighting the Northern Alliance. Because of the Taliban's activities, especially harboring Usama bin Laden, the United Nations Security Council passed a resolution in 1999 demanding the Taliban turn over bin Laden to Afghan authorities. *See* [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1267\(1999\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1267(1999)). The Taliban did not comply. Therefore, shortly following the issuance of U.S. Executive Order 13,129, *see* <https://fas.org/irp/offdocs/eo/eo-13129.htm>, the United Nations imposed sanctions on the Taliban, *see* [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1267\(1999\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1267(1999)). In February 2001, the U.S. State Department directed the Taliban to close its office in the United States, *see* http://www.cnn.com/2001/US/02/14/us.taliban/index.html?_s=PM:US.

With an offense level of 43, and a Criminal History Category of VI, the resulting Guidelines range normally would be life imprisonment. See PSR ¶ 100. However, in light of the combined 30-year statutory maximum for Counts One through Four, the PSR calculated Ujaama's Guidelines range to be 360 months, pursuant to U.S.S.G. § 5G1.2. See PSR ¶ 100. The Government also agrees with this Guidelines range.

Prior to completion of the PSR, the Government provided the Probation Office a prior draft of this brief, to permit the Probation Office to factor the Government's anticipated motion under Section 5K1.1 and Ujaama's extensive cooperation into its sentencing recommendation. Upon considering this information, as well as all the other circumstances of this case, the Probation Office recommended a term of imprisonment of time-served, to be followed by a period of lifetime supervised release.¹³

¹³ In recommending a lifetime term of supervised release, the Probation Office determined that, in light of Ujaama's offense conduct, "lifetime supervised release is a justified precaution to ensure that [Ujaama] no longer involves himself in such [terrorism-related] conduct." PSR p. 25. Title 18, United States Code, Section 3583(j) authorizes lifetime supervised release for violations of Title 18, United States Code, Section 2339A, *i.e.*, Counts Two and Three. That provision of Section 3583 took effect on October 26, 2001; previously, the maximum term of supervised release for a violation of Section 2339A was three years. Counts Two and Three of the Information allege Ujaama's commission of substantive and conspiracy material support offense that extended from June 2000 to December 19, 2001. The Government believes that the maximum term of supervised release for Ujaama should be three years, for three reasons.

First, Ujaama's cooperation agreement with the Government lists maximum terms of supervised release of three years for each of the four Counts.

Second, at Ujaama's guilty plea, Judge Keenan similarly advised Ujaama that the maximum term of supervised release is three years on each count: "Also you face a period of supervised release when you get out of prison. The period of supervised release, the maximum is three years on each count so the most you face as to supervised release is three years." Transcript, *United States v. Ujaama*, 04 Cr. 356 (JFK) (S.D.N.Y.) (Aug. 13, 2007), at 14; *cf. United States v. Renaud*, 999 F.2d 622, 625 (2d Cir. 1993) (finding district court's erroneous advice on maximum term of supervised release to be harmless because defendant wished to adhere to guilty plea, but observing that Circuit ordinarily would not consider such an understatement to be harmless and that, in such circumstances, defendant who wished to

In arriving at this recommended sentence, the Probation Office cited, among other things, Ujaama's "educational pursuits at a dizzying pace" since his release from custody in December 2010; Ujaama's extraordinary cooperation with the Government, which led to the convictions of Abu Hamza, Kassir, and Aswat, as well as assistance in other terrorism investigations; and the many lengthy meetings that Ujaama has had with the Government since his first proffer in February 2003. PSR p. 24. To that end, the Probation Office balanced the seriousness of Ujaama's criminal conduct with his extraordinary substantial assistance: "While the defendant's offense is extremely serious in nature, his cooperation efforts, notwithstanding his decision to flee to Belize, have been extraordinary." *Id.* p. 25.

withdraw plea should be given opportunity to do so and absent such opportunity, Circuit would likely vacate sentence to allow for withdrawal of plea).

Lastly, while Counts Two and Three contain language extending through December 2001, Ujaama did not allocate to any acts that occurred subsequent to October 26, 2001, the effective date of the lifetime supervised release provision of Section 3583(j). Similarly, the Government is unaware of any acts that Ujaama took to provide, or conspire to provide, material support to violent jihad following October 26, 2001. Ujaama testified, and previously told the Government during his debriefings, that in 2000, he traveled with Abassi from London to Pakistan, with instructions from Abu Hamza to deliver Abassi to Ibn Sheikh in Afghanistan. *Mustafa* Tr. at 2142-43; *Kassir* Tr. at 1350. However, Ujaama left Abassi behind in Quetta, Pakistan, in 2000 and traveled alone to Afghanistan. *Mustafa* Tr. at 2161-62; *Kassir* Tr. at 1360-61. In addition, Ujaama reported that, in early September 2001, he traveled to Pakistan with directions from Abu Hamza to deliver 6,000 pounds to Abdul Rahim in Kabul, Afghanistan, to support the Supporters of Shariah's girls' school in Afghanistan. *Mustafa* Tr. at 2215, 2219-20. However, while in Pakistan, Ujaama had a falling out with Abu Hamza, refused to travel to Afghanistan to deliver the money to Abdul Rahim or anyone else, and delivered the money to its original owners in Karachi, Pakistan. *Id.* at 2219-25. While Ujaama did not provide a specific date regarding when he delivered the money to the owner in Karachi – either when he testified or during his debriefings – email correspondence with Abu Hamza suggest that he delivered the money around mid-October 2001. In any event, by the effective date of the lifetime supervised release provision of Section 3583(j), Ujaama no longer was providing material support to violent jihad.

III. UJAAMA'S COOPERATION WITH THE GOVERNMENT

A. Information Provided To The Government

Since his first proffer on February 26, 2003, through his meetings to prepare to testify at Abu Hamza's trial in April 2014, Ujaama met with the Government upwards of 70 times, often during full-day sessions. In addition to providing detailed information on Abu Hamza, Kassir, and Aswat, Ujaama provided information on a host of other investigations. During these meetings, Ujaama was asked about scores of subjects of domestic and international investigations and was shown hundreds of photographs.

Ujaama provided information on the associate of Abu Hamza's ("CC-1") that he had met in Houston, Texas, during Ujaama's trip to the United States in 2000. Ujaama explained that CC-1 was a student of Abu Hamza's and that he thought CC-1 knew Abu Hamza through Abu Hamza's sons. Ujaama knew that CC-1 was skilled in computer programming and web design, and was able to create attack-proof websites. Ujaama reported that he traveled to Houston to obtain assistance from CC-1 with the programming for the Supporters of Shariah website. CC-1 created a prototype of the Supporters of Shariah website, using information from the existing website and adding additional layout and design features (although Ujaama did not like the prototype that CC-1 developed). Ujaama also recalled that CC-1 provided a tape duplicator and digital camera for the Supporters of Shariah, and Ujaama also believed that CC-1 assisted with some Arabic translation of Abu Hamza's lectures. Ujaama also reported that, while in Texas, CC-1 also took Ujaama to the headquarters for Dell Computers to purchase a battery for Ujaama's Dell laptop.

Ujaama also discussed other interactions he had with CC-1. For instance, Ujaama explained emails that he sent to CC-1, including one dated July 25, 2000, which pertained to

III. UJAAMA'S COOPERATION WITH THE GOVERNMENT

A. Information Provided To The Government

Since his first proffer on February 26, 2003, through his meetings to prepare to testify at Abu Hamza's trial in April 2014, Ujaama met with the Government upwards of 70 times, often during full-day sessions. In addition to providing detailed information on Abu Hamza, Kassir, and Aswat, Ujaama provided information on a host of other investigations. During these meetings, Ujaama was asked about scores of subjects of domestic and international investigations and was shown hundreds of photographs.

Ujaama provided information on the associate of Abu Hamza's ("CC-1") that he had met in Houston, Texas, during Ujaama's trip to the United States in 2000. Ujaama explained that CC-1 was a student of Abu Hamza's and that he thought CC-1 knew Abu Hamza through Abu Hamza's sons. Ujaama knew that CC-1 was skilled in computer programming and web design, and was able to create attack-proof websites. Ujaama reported that he traveled to Houston to obtain assistance from CC-1 with the programming for the Supporters of Shariah website. CC-1 created a prototype of the Supporters of Shariah website, using information from the existing website and adding additional layout and design features (although Ujaama did not like the prototype that CC-1 developed). Ujaama also recalled that CC-1 provided a tape duplicator and digital camera for the Supporters of Shariah, and Ujaama also believed that CC-1 assisted with some Arabic translation of Abu Hamza's lectures. Ujaama also reported that, while in Texas, CC-1 also took Ujaama to the headquarters for Dell Computers to purchase a battery for Ujaama's Dell laptop.

Ujaama also discussed other interactions he had with CC-1. For instance, Ujaama explained emails that he sent to CC-1, including one dated July 25, 2000, which pertained to

securing CC-1's assistance in posting Abu Hamza's lectures on the Internet. Ujaama also explained that he envisioned CC-1 having a role on the Supporters of Shariah website as a specialist focusing on web programming. Ujaama also explained that he emailed CC-1 about a news reporting company in Pakistan and his computer training school project in Afghanistan. Ujaama additionally explained that in October 2001 he tried to persuade CC-1 to come to Pakistan to assist with technical support and programming for a group he was hoped to put together in Pakistan and Afghanistan.

Ujaama was debriefed extensively about individuals in the United Kingdom, such as Sheikh Faisal, various followers of Sheikh Faisal and Abu Hamza, other individuals he encountered at the Finsbury Park Mosque, and persons who might be inclined to travel to support terrorism like Abassi. Ujaama additionally discussed individuals he encountered while receiving training in Afghanistan in 1998. Ujaama similarly discussed people who he encountered in New York and Texas during his trip to the United States in 2000, such as CC-1. Ujaama spoke about the many people he interacted with during his trip to Pakistan and Afghanistan in 2000, and his trip to Pakistan in 2001. Most significant was Ujaama's detailed discussion of individuals associated with al Qaeda and the Taliban that Ujaama met in Afghanistan as a result of connections facilitated by Abu Hamza. Throughout, Ujaama examined scores of photographs and provided information to assist law enforcement in identifying the individuals.

In addition, the FBI regularly met with Ujaama to pursue investigative leads sent from various FBI field offices across the country. Ujaama also was interviewed by prosecutors with the Office of Military Commissions regarding several detainees at Guantanamo Bay. Ujaama provided information on individuals who he encountered in London, including former Guantanamo Bay detainees Abassi and Mozzam Begg. Ujaama advised that he was an associate

of Begg's and visited the Maktabah al-Ansar bookstore, which was a bookstore that Begg co-owned and commissioned and published Dhiren Barot's book, *The Army of the Madinah in Kashmir*. See *infra* III.B.1. Ujaama also discussed a current Guantanamo Bay detainee named Saifullah Paracha, who Ujaama met in Pakistan and discussed creating a group to cover Islamic news.

B. Information Provided To Foreign Officials

British officials participated in interviews of Ujaama on two occasions, and foreign government officials regularly passed questions and topics to the U.S. investigators to address with Ujaama. The FBI, in turn, would share Ujaama's reporting with our foreign counterparts. In particular, Ujaama provided information that assisted two significant counterterrorism investigations in the United Kingdom.

1. Investigation Of Dhiren Barot

The most significant assistance that Ujaama provided to British authorities related to Dhiren Barot. Barot, who also was known as "Issa al-Hindi" and "Issa al-Britani," participated in a plot to attack the New York Stock Exchange, the International Monetary Fund headquarters in Washington, D.C., the Citigroup Building in Manhattan, and the Prudential Insurance headquarters in Newark, New Jersey. Barot, who was born in India and moved to London at a young age, trained at a terrorist training camp and later traveled to the United States on a student visa. While in the United States, Barot conducted surveillance of targets for an al Qaeda attack, before returning to the United Kingdom in April 2001.

Ujaama played an important role in helping to identify Barot, whom Ujaama knew as Issa al-Hindi. Ujaama first met Barot during his trip to Afghanistan in 1998 to receive jihad training. Ujaama met Barot at a guest house in Kabul, and then encountered Barot at the Tablighi Jamaat

training camp that Ujaama trained at in 1998. According to Ujaama, Barot was a senior figure at the camp, and conducted physical fitness training. Ujaama reported that he had heard that Barot previously had resided in England, that his family was originally from India, and that Barot spoke with a British accent.

Ujaama additionally reported that, after seeing Barot at the Tablighi Jamaat camp in Afghanistan in 1998, he next saw Barot in London in 2000. Ujaama encountered Barot at the Finsbury Park Mosque around April or May 2000, after Barot had written a book, titled *The Army of Madinah in Kashmir*, about his experiences with the mujahideen in Kashmir. Barot discussed with Ujaama his connection to a Kashmiri militant group, and asked Ujaama to sell copies of the book for him.

Ujaama provided law enforcement with his assessment of Barot, describing Barot as an intelligent man, dedicated to Islam, and someone who Ujaama would not be surprised if he were involved in planning a terrorist plot aimed at removing non-Muslims from Muslim lands. Ujaama, who visited Barot at his residence in London, also provided details as to where Barot lived, describing the neighborhood and how to arrive there via the London Underground. Ujaama additionally provided information about a solicitor who was close to Barot, and reported that Barot may have already departed from England by the time Ujaama returned from his 2000 trip to the United States. Ujaama also helped law enforcement create a sketch of Barot that proved to be very accurate.

In 2005, Barot, along with Nadeem Tarmohamed and Qaisar Shaffi, were charged in the Southern District of New York in a sealed indictment, docketed 05 Cr. 311. That indictment, which was later unsealed, charged Barot, Tarmohamed, and Shaffi four counts: (1) conspiring to use weapons of mass destruction against persons within the United States, in violation of Title

18, United States Code, Section 2332a(a)(2) (Count One); (2) conspiring provide, and providing, material support and resources to terrorists, specifically a violation of Title 18, United States Code, Section 844(i) (damage by fire and explosives to a building, vehicle, or property used in interstate or foreign commerce), in violation of Title 18, United States Code, Section 2339A (Counts Two and Three); and (3) conspiring to damage and destroy by explosive buildings, vehicles, and property used in interstate and foreign commerce, in violation of Title 18, United States Code, Sections 844(i) and (n) (Count Four). This Office's ability to identify and charge Barot relied significantly on the information provided by Ujaama.

Barot ultimately was not prosecuted in the United States, but rather in the United Kingdom, where the majority of the evidence was located. Barot was arrested in the United Kingdom in August 2004, and, along with seven of his co-conspirators including Tarmohamed and Shaffi, Barot was charged there with a number of terrorism offenses. Barot later pled guilty to conspiring to murder and, in November 2006, Barot was sentenced to life imprisonment, with a judicial recommendation that he serve at least 40 years. Barot's sentence was later reduced on appeal to 30 years.

2. Investigation Of Omar Khyam

Ujaama also assisted a 2004 British investigation into a terrorist cell that was targeting refineries and pubs in London. The terror cell, which was led by a man named Omar Khyam, purchased significant amounts of fertilizer stored in storage lockers to use to attack targets that likely included a nightclub, a shopping mall, and an electric power grid. The plot was disrupted before any attack could be executed. Some of the co-conspirators had received training in Pakistan on explosives and other terror techniques. On April 30, 2007, after a year-long trial in the United Kingdom, Khyam and five others were convicted of conspiring to cause an explosion

likely to endanger life for their participation in this plot, and were sentenced to life imprisonment.

Ujaama provided intelligence on Khyam, the leader of the terror cell. During a debriefing on February 12, 2004, Ujaama identified a photograph of Khyam as someone he had encountered in London around 2000. Ujaama explained that Khyam helped Ujaama sell Supporters of Shariah CDs to raise money for the Finsbury Park hijra fund. Ujaama learned that Khyam had received jihad training in Afghanistan, and believed he trained at a camp operated by the Kashmiri separatist group, Lashkar-e-Taiba, which is now designated as a foreign terrorist organization under U.S. law by the State Department. Ujaama further recalled that Khyam's parents, who were extremely angry about their son's travel to Afghanistan, publicly blamed Abu Hamza for facilitating his jihad training trip. Ujaama also provided information about Khyam's ethnicity, Khyam's parents, and their location. The FBI passed Ujaama's information about Khyam to British Metropolitan Police Service.

C. Ujaama's Assistance With Oussama Kassir's Conviction

Ujaama testified at Kassir's trial on April 28 and 29, 2009, covering a little under one and a half trial days. Ujaama provided critical testimony to support Kassir's conviction of four counts related to his efforts to establish the terrorist training camp in Bly, Oregon.

1. Kassir's Offense Conduct And Conviction

As discussed above, *see supra* II.B, in late November 1999, Kassir traveled to the United States, at Abu Hamza's direction, to help establish a terrorist training camp in Bly, Oregon. After the initiative to establish the Bly camp failed, Kassir continued to provide jihad training by creating and maintaining various jihadi websites that funneled to jihadists detailed practical

information on how to build working explosives; how to make large volumes of lethal chemical gases; how to prepare poisons; and how to establish working terrorist training camps in the West.

On May 12, 2009, Kassir was convicted, after a four-week jury trial, of eleven counts: (1) two counts of conspiring to provide and conceal material support and resources to terrorists, in violation of Title 18, United States Code, Section 2339A; (2) two counts of providing material support and resources to terrorists, in violation of Title 18, United States Code, Section 2339A; (3) two counts of conspiring to provide material support and resources to a designated foreign terrorist organization, al Qaeda, in violation of Title 18, United States Code, Section 2339B; (4) two counts of providing material support and resources to a designated foreign terrorist organization, al Qaeda, in violation of Title 18, United States Code, Section 2339B; (5) two counts of conspiring to kill, kidnap, maim, and injure persons in a foreign country, in violation of Title 18, United States Code, Section 956(a); and (6) one count of distributing information relating to explosives, destructive devices, and weapons of mass destruction, in violation of Title 18, United States Code, Section 842(p)(2)(A). On September 15, 2009, Kassir was sentenced by Judge Keenan to, among other things, multiple terms of life imprisonment. At the sentencing proceeding, Judge Keenan emphasized that Kassir was a "clear threat to public safety."

2. Ujaama's Testimony At Kassir's Trial

Ujaama was an extremely important witness at Kassir's trial. Ujaama's testimony focused on Kassir's involvement in the Bly training camp, in particular with respect to Kassir's intended role as a physical trainer at the camp. Much of Ujaama's testimony was consistent with, and corroborated by, the testimony of other witnesses who were present at Bly.

Ujaama testified that a few days after Kassir arrived in Seattle with his family and Aswat, they traveled to the ranch in Bly. *Kassir* Tr. at 1328-31. Ujaama explained that, upon arriving at

the property, Kassir became furious that the training camp was not as far along as Ujaama had led Abu Hamza to believe. *Id.* at 1332-33. Ujaama testified at the *Kassir* trial that an irate Kassir complained that “there was supposed to be guns and there was supposed to be . . . a stockpile of weapons, and there was supposed to be recruits there [at Bly] for [Kassir] to train,” as Ujaama had assured in the October 25, 1999 fax. *Id.* at 1333. Ujaama also testified that he and Kassir argued about who would be the emir of the training camp. *Id.* at 1333-34.

Ujaama also testified about a number of incriminating statements that Kassir had made to him while in the United States, including that Abu Hamza had sent him to the United States to conduct jihad training for the recruits, that he had helped Abu Hamza take over the Finsbury Park Mosque, and that he had received jihad training in Afghanistan. *Kassir* Tr. at 1331-32. Ujaama also assessed at trial that Kassir appeared to be the leader among Kassir and Aswat. *Id.* at 1332.

Ujaama also provided background testimony at the *Kassir* trial about Abu Hamza, including Abu Hamza’s preaching in support of violent jihad. *Kassir* Tr. at 1297. This testimony was important to helping the jury appreciate Kassir’s intentions in traveling to the United States to establish the training camp. Ujaama also testified about what he told Abu Hamza about the purpose of the camp, including by walking through his October 25, 1999 fax to Abu Hamza, *id.* at 1313-19, which further shed light on Kassir’s understanding as to the violent purpose of the training camp.

D. Ujaama’s Assistance With Abu Hamza’s Conviction

Ujaama testified at Abu Hamza’s trial on April 30, May 1, May 5, and May 6, 2014, covering approximately slightly more than three full trial days. Ujaama’s testimony was essential to support five of the eleven counts on which Abu Hamza was convicted, specifically,

Counts 7 through 11, which pertained to Abu Hamza's support of violent jihad through al Qaeda and the Taliban in Afghanistan. Ujaama's testimony also was extremely important to support Abu Hamza's conviction on four other counts, namely, Counts 3 through 6, which pertain to Abu Hamza's efforts to establish a terrorist training camp in Bly, Oregon.

1. Abu Hamza's Offense Conduct And Conviction

As detailed above, Abu Hamza has supported acts of violence for many years and in many ways. As the former imam of the Finsbury Park Mosque in London, Abu Hamza used his position to radicalize his impressionable young followers and indoctrinate them into an extremist and violent ideology; to disseminate messages of intolerance and hatred; and to encourage his followers to participate in violent jihad. Abu Hamza was convicted of four courses of conduct, each of which demonstrates Abu Hamza's ability and willingness to motivate others to engage in concrete acts of violence, terror, and murder.

First, while operating out of London, Abu Hamza participated in the December 1998 hostage-taking in Yemen of sixteen tourists, including two American citizens. The purpose of this hostage-taking was to convince the Yemeni government to release various individuals who recently had been arrested, including Abu Hamza's stepson and other followers of his. During a rescue attempt, four of the hostages were killed and several others were wounded. Second, as discussed more fully above, in 1999, Abu Hamza sent two of his followers, Kassir and Aswat, to the United States to work with Ujaama to establish the jihad training camp in the United States. *See supra* II.B. Third, as also discussed above, in 2000, Abu Hamza directed Ujaama to escort Abassi from London to Afghanistan, to be delivered to Ibn Sheikh, the leader of a terrorist training camp in Afghanistan. *See supra* II.D. Fourth, from around 2000 to 2001, Abu Hamza

conspired to provide goods and services to the Taliban, including by sending money and other items via Ujaama to Taliban-controlled regions of Afghanistan. *See supra* II.D.

On May 19, 2014, Abu Hamza was convicted after trial, for numerous terrorism-related crimes: (1) conspiring to take hostages and taking hostages, in connection with the Yemen hostage-taking, in violation of Title 18, United States Code, Section 1203 (Counts One and Two); (2) conspiring, providing, and attempting to provide material support and resources to terrorists, in connection with the Bly training camp, in violation of Title 18, United States Code, Sections 371 and 2339A (Counts Three and Four); (3) conspiring, providing, and attempting to provide material support and resources to a designated foreign terrorist organization, namely al Qaeda, in connection with the Bly training camp, in violation of Title 18, United States Code, Section 2339B (Counts Five and Six); (4) conspiring, providing, and attempting to provide material support and resources to terrorists, in connection with his support of violent jihad in Afghanistan, including by sending Abassi to Afghanistan, in violation of Title 18, United States Code, Section 2339A (Counts Seven and Eight); (5) conspiring, providing, and attempting to provide material support and resources to a designated foreign terrorist organization, namely al Qaeda, in connection with his support of violent jihad in Afghanistan, including by sending Abassi to Afghanistan, in violation of Title 18, United States Code, Section 2339B (Counts Nine and Ten); and (6) conspiring to provide goods and services to the Taliban, in violation of Title 50, United States Code, Section 1705 (Count Eleven). On January 9, 2015, Abu Hamza was sentenced to a term of life imprisonment.

2. Ujaama's Testimony At Abu Hamza's Trial

Ujaama's testimony at Abu Hamza's trial covered a wide range of topics.

First, as context, Ujaama gave an insider's view to the jury of the messages directing violence that Abu Hamza conveyed to his followers. For instance, from 2000 to 2001, Ujaama regularly attended the Friday prayer, or khutbah, delivered by Abu Hamza at the Finsbury Park Mosque, and also listened to tapes of Abu Hamza's sermons. *Mustafa Tr.* at 1984. Ujaama testified that, in these sermons, Abu Hamza delivered messages denouncing U.S. foreign policy as destructive, supporting removal of the United States from the Arabian Peninsula by force, calling for violent jihad, proclaiming that fighting is obligatory on Muslims, and announcing that violence was necessary to defend the honor and lives of Muslims. *Id.* at 1978, 1984-85, 1992, 2001-02. Ujaama also attended conferences with Abu Hamza sponsored by the Supporters of Shariah, and testified that, at these conferences, Abu Hamza spoke about the need for Muslim's to engage in hijra, or migration, to Afghanistan. *Id.* at 1986-87. Ujaama additionally testified about Abu Hamza's view that the October 2000 bombing of the *USS Cole* was justified, Abu Hamza's support of the Taliban as a proper Islamic government that should be supported by Muslims, and Abu Hamza's awareness of U.S. sanctions on the Taliban. *Id.* at 2004-06. In addition, Ujaama explained some of the concepts contained on various recordings of Abu Hamza, such as Abu Hamza's statements about fighting being obligatory on Muslims, calling on training before fighting on the front lines, and stating that it is permissible to lie to the kafirs, or non-believers in Islam. *Id.* at 1992-94.

Similarly, Ujaama described the Finsbury Park Mosque for the jury. Ujaama explained Abu Hamza's role as the imam and emir of the mosque. *Mustafa Tr.* at 2118. Ujaama also described the size and layout of the Finsbury Park Mosque, including descriptions of Abu

Hamza's office, Ujaama's office, the prayer areas, the bookstore, and other parts of the mosque. *Id.* at 2119-30. For instance, Ujaama described the types of materials that were sold in the bookstore, which included Abu Hamza's tapes, and the items stored in the attic of the mosque, which included camouflage military gear and gas masks. *Id.* at 2124, 2130.

Ujaama also provided important testimony about the Supporters of Shariah organization that Abu Hamza operated out of the Finsbury Park Mosque. Ujaama explained his duties with the Supporters of Shariah, as well as Abu Hamza's role as the head of the Supporters of Shariah, which included having the final say as to all matters relating to the organization and content on the website. *Mustafa Tr.* at 1955, 1958-59, 1965-68. Ujaama explained that the primary focus of the organization was to spread Abu Hamza's message, including that physical jihad was mandatory for all Muslims. *Id.* at 1954-56, 1962-64. Ujaama also discussed the *Al Jihad* newsletter that was published by the Supporters of Shariah, which also contained Abu Hamza's messages and information on current events. *Id.* at 1964. Ujaama testified about materials posted on Abu Hamza's Supporters of Shariah website, including Usama Bin Laden's August 1996 Declaration of War against the United States and a statement reflecting the Supporter of Shariah's support for Bin Laden's Declaration. *Id.* at 1974-75.

Ujaama also testified about his trip to the United States in 2000, on behalf of Abu Hamza, to visit mosques to raise money for the Supporters of Shariah's hijra project. *Mustafa Tr.* at 2134-35. Ujaama explained that he raised some money at one of the mosques, and then traveled to Texas where, among other things, Ujaama obtained a tape duplicator machine for Abu Hamza and received web programming training for his work with the Supporters of Shariah's website. *Id.* at 2136-38.

With respect to specific charges against Abu Hamza, Ujaama explained Abu Hamza's leadership role in attempting to establish the jihad training camp in Bly, Oregon. Ujaama testified about his initial discussions with Abu Hamza proposing his vision for the training camp. *Mustafa* Tr. at 2038. Ujaama explained that he initially spoke with Abu Hamza about his concept for the training camp by telephone, and then followed up with faxes to in October and November 1999 describing the plan in greater detail. *Id.* at 2038, 2055-68, 2071-77. Ujaama walked through those two faxes for the jury, explaining exactly what he meant by specific language in those faxes. For example, Ujaama testified that he compared the land at Bly to Afghanistan because that was the intended destination for those trained at the camp, *id.* at 2061, extolled his "jumaat" as young and strong and willing to dedicate themselves to Abu Hamza, *id.* at 2061-62, promised protection for Abu Hamza in the United States, *id.* at 2062-63, explained that the training would result in being able to help support the Taliban, *id.* at 2063-64, assured Abu Hamza that they were stockpiling weapons and ammunition, *id.* at 2064, and gave updates on the young men who would be trained at the camp, *id.* at 2077. Ujaama also related a telephone conversation that he had with Abu Hamza after sending the October 1999 fax, during which Abu Hamza scolded him because British intelligence could have intercepted the fax. *Id.* at 2070.

Ujaama further testified that, after hearing his plan for the training camp, Abu Hamza not only agreed with and endorsed that plan, but sent two of his followers to Oregon to help establish the camp. Ujaama explained the parts of his Fall 1999 faxes to Abu Hamza in which he specifically mentioned the two men that Abu Hamza agreed to send. *Mustafa* Tr. at 2066-67, 2077. Ujaama also described the arrival of those two individuals—Kassir and Aswat—in Seattle and bringing them to the Bly training camp. *Id.* at 2080-84. Ujaama's testimony about his

interactions with Kassir made clear for the jury that Kassir was extremely serious about his plans for the training camp. Kassir—who was sent at the direction of Abu Hamza—was dedicated to training men to fight and kill in the name of jihad. Much of Ujaama's testimony regarding his interactions with Kassir and Aswat was corroborated by testimony from other witnesses at Abu Hamza's trial.

Ujaama also provided essential testimony regarding Abu Hamza's efforts to support violent jihad in Afghanistan. Ujaama explained his conversations with Abu Hamza, during which Abu Hamza tasked him to deliver Abassi to Ibn Sheikh in Afghanistan. *Mustafa* Tr. at 2141. Ujaama testified that Abu Hamza told him that Ibn Sheikh was a front line commander, and Ujaama explained that he understood this to mean that Ibn Sheikh fought with the Taliban. *Id.* at 2141. Ujaama also testified about the four envelopes with money that Abu Hamza provided him to deliver in Afghanistan as well, including envelopes that went to Abu Khabaab, an explosives trainer who ran a terrorist training camp, and to Ibn Sheikh. *Id.* at 2145-46.

Ujaama explained his travels to Afghanistan, through Pakistan; the assistance that Abu Hamza's contact, the Taliban's foreign minister, Mutawakil, provided to his travels; Ujaama's decision to leave Abassi behind in Quetta; and his ultimate arrival in Afghanistan. *Mustafa* Tr. at 2154-68. Ujaama then explained his efforts to deliver the envelopes with money in Afghanistan, as directed by Abu Hamza. *Id.* at 2169-84. In particular, Ujaama related a conversation he had with Abu Hamza while in Khost, Afghanistan, in which Abu Hamza expressed anger that Ujaama had left Abassi behind in Quetta, ordered Ujaama to return to Quetta to retrieve Abassi, and opposed another individual's desire to have Ujaama fight on the front lines. *Id.* at 2177-79.

Ujaama's testimony also confirmed that Abassi had arrived in Afghanistan as Abu Hamza had intended. Ujaama explained that, as he was in the process of departing Afghanistan,

he encountered Abbasi at a Taliban compound in Kandahar. *Mustafa* Tr. at 2187. This testimony was important because another witness at trial, Sajiid Badat, testified that he saw Abbasi at the al Faruq training camp, which was al Qaeda's primary training camp, and that Abbasi met with senior al Qaeda leaders, Saif al-Adl and Abu Hafs al-Masri, who asked if he was willing to participate in attacks on behalf of al Qaeda against American and Jewish targets. *Id.* at 1632, 1652-54.

Lastly, Ujaama's testimony further established Abu Hamza's support for the Taliban in connection with his 2001 attempted travels to Afghanistan. After returning to London in 2000, Ujaama discussed with Abu Hamza his plan to establish a web development school in Kandahar. Abu Hamza at that point gave Ujaama 6,000 pounds to deliver to Abdul Rahim, Abu Hamza's point of contact for the Supporters of Shariah in Afghanistan. *Mustafa* Tr. at 2192.

E. Haroon Aswat's Guilty Plea

As discussed above, Aswat was one of Abu Hamza's followers who Abu Hamza sent to the United States in late 1999 to establish the jihad training camp in Oregon with Ujaama. *See supra* II.B. Aswat's role was primarily to provide spiritual training to the men at the Bly training camp.

Aswat, was arrested in Zambia and extradited to the United Kingdom in June 2005. After many years of litigation, Aswat was then extradited to the United States on October 21, 2014. Aswat arrived in the United States just a matter of months after Abu Hamza was found guilty of eleven terrorism offenses.

On March 30, 2015, Aswat pled guilty to providing material support and resources to a designated foreign terrorist organization ("FTO"), *i.e.*, al Qaeda, and conspiring to provide

material support and resources to a designated FTO, *i.e.*, al Qaeda, both in violation of Title 18, United States Code, Section 2339B. Aswat is scheduled to be sentenced today.

Immediately upon the appointment of counsel for Aswat, the Government sent Aswat's counsel the transcripts from the trials of Abu Hamza and Kassir. From the very onset of Aswat's arrival in the Southern District of New York, Aswat's counsel made clear that he was interested in resolving his case without a trial. It is a very reasonable inference to draw that Aswat's desire to promptly enter into a guilty plea was influenced by his appreciation of the strength of the Government's proof against him, and foremost among that proof was the anticipated testimony from Ujaama.

F. Overview Of Ujaama's Substantial Assistance

For reasons set forth in the prior section, Ujaama offered extraordinary assistance to the Government in a number of highly important matters to the national security of this country. Section 5K1.1 of the Guidelines sets forth five non-exclusive factors that sentencing courts are encouraged to consider in determining the appropriate sentencing reduction for a defendant who has rendered substantial assistance. *See* U.S.S.G. § 5K1.1(a). Those factors apply to Ujaama's cooperation as follows:

1. "[S]ignificance and usefulness" of assistance (U.S.S.G. § 5K1.1(a)(1))

As described above, Ujaama's cooperation was extremely significant and indeed, in many respects, unprecedented. Ujaama testified in two major terrorism trials. He provided important testimony to support Abu Hamza's and Kassir's convictions of four counts relating to the Bly training camp, and he provided essential testimony to support Abu Hamza's conviction of five counts relating to Abu Hamza's support for violent jihad—and in particular, al Qaeda and the Taliban—in Afghanistan. The Government also believes that Ujaama's anticipated

testimony was a significant factor in the decision of another participant in the Bly conspiracy, Aswat, to plead guilty shortly after his arrival in the United States. In addition, information provided by Ujaama assisted numerous other terrorism investigations, and Ujaama's information assisted two terrorism prosecutions in the United Kingdom. Few terrorism cooperators in this country have even approached providing the level of valuable assistance that Ujaama has provided.

2. "[T]ruthfulness, completeness, and reliability" of information and testimony (U.S.S.G. § 5K1.1(a)(2))

During Ujaama's initial proffer sessions, he minimized certain aspects of his conduct and the Bly training camp plot. However, by the time he arrived in New York in May 2003, Ujaama came around, ceased minimizing, and admitted to the entirety of the Bly conspiracy. Since then, the Government has assessed Ujaama to be truthful in his many meetings with the Government. After Ujaama made the poor decision to flee to Belize and was captured, he immediately was cooperative again and admitted to all aspects of his flight—information which was fully corroborated by records obtained by the Government and witness interviews.

In the Government's view, Ujaama's demeanor in his many proffer sessions and pre-trial preparation meetings, as well as while testifying at the trials of Abu Hamza and Kassir, evinced credibility, and his information has been consistent with other evidence obtained in the Government's investigation. Although Ujaama was testifying and talking to the Government about events that happened well over a decade prior, Ujaama worked hard to recall details. Finally, his credibility was tested by experienced defense attorneys during cross examination at both trials, and, in the Government's view, Ujaama was truthful, credible, complete, and reliable on the witness stand.

3. "[N]ature and extent" of assistance (U.S.S.G. § 5K1.1(a)(3))

In total, Ujaama met with the Government upwards of 70 occasions, often for full-day sessions. In recent years, Ujaama has met with the Government while also attending school full-time. Further, cooperating against others involved in terrorism-related offenses and acts of terrorism is one of the most important ways a defendant can render assistance to the Government. Again, the extent of his cooperation cannot be questioned, and he was arguably the most important witness at the trials of two major terrorism defendants. Ujaama was always and remains willing to undertake any assistance requested by the Government.

4. "[A]ny injury suffered, or any danger or risk of injury to the defendant or [his] family" resulting from assistance (U.S.S.G. § 5K1.1(a)(4))

Ujaama testified against Abu Hamza, a global terrorist leader who inspired his followers to engage in acts of terror and murder across the globe. He also testified against Kassir, who came to the United States to train others in violence and physically confronted Ujaama. Ujaama was similarly prepared to cooperate against others involved in terrorism-related offenses and acts of terrorism. Obviously, he cooperated despite the danger and risk of injury to himself and others. Moreover, because he testified publicly at two high profile terrorism trial, his testimony received media attention, both domestically and abroad. Ujaama knew this was a consequence of his cooperation from when he first expressed a desire to cooperate. Ujaama only wavered in his commitment to cooperating against others when, in December 2006, he fled to Belize to avoid having to testify against others. Since Ujaama's apprehension in Belize and return to the United States, however, he testified against two major terrorists (Abu Hamza and Kassir) and was prepared to testify against another individual who was charged with terrorism offenses (Aswat).

5. "[T]imeliness" of assistance (U.S.S.G. § 5K1.1(a)(5)).

Ujaama first met with the Government on February 26, 2003 in a proffer with the Western District of Washington, about six months after he was charged in that District. While he initially minimized, as of May 2003, Ujaama had fully come on board with cooperation and has been assessed to be entirely truthful since that date. While Ujaama of course ceased cooperating by fleeing to Belize in December 2006, Ujaama resumed cooperating after he was apprehended and returned to the United States, and he has not ceased cooperating since then.

V. CONCLUSION

For all the foregoing reasons, the Government has determined that Ujaama has provided substantial assistance in the investigation and prosecution of other persons. Indeed, his cooperation was extraordinary and massively important in a host of significant terrorism investigations and prosecutions. In light of that fact, and assuming that Ujaama continues to comply with the terms of his cooperation agreement and commits no additional crimes before sentencing, the Government intends to move at sentencing that the Court sentence Ujaama in light of the relevant facts stated above and the factors set forth in Section 5K1.1(a)(1)-(5) of the Sentencing Guidelines. Lastly, given the sensitive nature of the information contained in this

letter and the fact that the investigation into this matter continues, the Government also respectfully requests that it be filed under seal by the Court.

Dated: New York, New York
October 16, 2015

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By:



John P. Cronan
Edward Y. Kim
Ian McGinley
Shane Stansbury
Assistant United States Attorneys
Tels.: (212) 637-2779/-2401/-2257/-2641

AFFIRMATION OF SERVICE

JOHN P. CRONAN, pursuant to 28 U.S.C. § 1746, hereby declares under the penalty of perjury:

I am an Assistant United States Attorney in the Office of the United States Attorney for the Southern District of New York. On October 16, 2015, I caused copies of the Sentencing Memorandum of the United States to be delivered by electronic mail and hand to the following counsel for defendant Earnest James Ujaama:

Peter Offenbecher, Esq.
Skellenger Bender, P.S.
Email: POffenbecher@skellengerbender.com

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: New York, New York
October 16, 2015



John P. Cronan
Assistant United States Attorney